OROVILLE FACILITIES RELICENSING

FEDERAL ENERGY REGULATORY COMMISSION PROJECT

(FERC PROJECT NO. 2100)

PUBLIC SCOPING MEETING

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MONDAY, OCTOBER 29, 2001

6:00 O'CLOCK P.M.

Tagra Shanoff Dent, CSR

CSR NO. 3332

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October 29, 2001

Oroville State Theater

1498 Meyers Street

Oroville, California

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MR. RICK RAMIREZ: Okay. I think we can start. It looks like we've got most of the crowd and -- and firmly in their seats. And we do have an agenda that's designed to get us out of here at nine o'clock, but I don't think anyone would object if we happen to beat that time. We'll be able to spend the lion's share of the agenda receiving comments. That's basically what this process is about. We'll describe it in a little more detail as we go through the agenda. So anybody out there that is interested in providing comments to the Department will have that opportunity before the night is over.

I think I know most of the folks out in the audience, but for those that don't know me, my name is Rick Ramirez. I'm with the California Department of Water Resources. I am the Manager of the Oroville Facilities Relicensing Program.

Many folks in the audience I recognize as participants in our collaborative process. The Department has in fact initiated what's called a collaborative process to renew its Oroville facilities license. We have an existing fifty-year license that will be expiring in the year 2007, and we've started the process that will lead to submittal for a new license with the Federal Energy Regulatory Commission by 2005. So that's the context for this meeting tonight.

And we'll be going through the slides and we'll see

exactly what it is that the NEPA, the National Environmental Policy Act, requires of this type of meeting and will also let you know how the scoping process fits in with our alternative license procedure, process or the relicensing process.

First of all, I want to just briefly go over the meeting and the scoping objectives. There are in fact two different -- two different levels that we need to keep in mind. The scoping process itself involves more than just this meeting. This particular meeting has its specific objectives that contribute to the overall scoping objectives, but I don't think we'll meet all the scoping objectives through this one meeting tonight.

And for those of you not familiar with the regulatory process, the scoping of objectives are -- are the manner in which the participants and the department and the federal agencies that are participating in the process are able to identify issues. And we do that -- one way we do that is by soliciting information from the public. And basically that is what this meeting here tonight is about, is to solicit information that participants or public members feel is important that the department and the process should consider as we study the issues that surround our request for a new license.

And basically the license is for operation of the Oroville facilities. And those facilities have impact upon

different resources -- resources in the area. And that includes cultural resources, it includes environmental resources, that includes recreational, land use; all the different uses that many of the people are interested in. So we are trying to determine exactly how our request for a new license will impact those resources. And one way we do that, again, is to solicit input from the public. So that is what this particular meeting is about.

And as we collect those issues, we'll determine which ones, and we'll determine collectively which of those issues are going to require a detailed analysis and which issues should appear in the environmental documentation that will accompany our application.

That is the scoping portion of the relicensing.

Now, there's many people that perhaps don't know exactly what relicensing is. I've mentioned it briefly, but I will also kind of place the scoping portion in a little more context by talking about relicensing in general here.

The federal government through the Federal Energy Regulatory Commission issues licenses for non-federally owned projects, and the department's Oroville facilities are a non-federal project. They issue licenses for twenty-five to fifty years. And those licenses have terms and conditions which determine how the department is able to operate the facilities.

Now, when we submit an application for a new

license, FERC will try and balance what are called the power and the non-power benefits associated with the project. Basically, the power is called the developmental purpose; and the non-power benefits -- which include fish, cultural resources, the environmental and recreational benefits -- are considered the non-power benefits. And, unfortunately, at times, these resources can be in conflict with each other. So there's plenty of discussion that takes place as to how to best balance the use of those resources.

Our particular process, the relicensing process, also includes participation by many federal and state agencies. Generally these federal and state agencies have responsibilities in certain of those resource areas. And they also have the statutory authority to place certain terms and conditions directly into the license. Now, through our collaborative process, we're hoping to engage those federal and state agencies and arrive, again, collectively with an agreement on how those terms and conditions should look.

Okay. These are just a few facts about the Oroville facilities. I think many people know the facilities themselves are part of the overall California State Water Project. The boundary for the Oroville facilities encompasses forty-one -- over forty-one thousand acres. The power component of the power facilities of the Oroville complex include three different power plants with the combined license capacity of seven hundred and sixty-two

megawatts. And those who are familiar with the Oroville operation also know that the facilities provide flood protection, recreation, enhances fish and wild life, and also improves water quality through releases into the Bay Delta.

Okay. If you're not confused yet, we'll try harder here.

Traditionally FERC -- FERC had a very established procedure for processing applications for new licenses -- for new licenses. And, unfortunately, it discovered that the traditional or standard process perhaps was not very efficient, given the new sensitivity to cultural and environmental issues that perhaps weren't prevalent fifty years ago when the original licenses were issued. So FERC developed, with the input from stakeholders, the new -- what is called the new alternative licensing process. And that is the process that the Department itself is following in pursuing its new license for Oroville.

What is critical about this alternative process, in my view, are two components.

Number one, it involves the public on a much larger scale than the traditional process did -- or does, because the traditional process actually is still out there as an option. So we have -- we have that collaboration, not only with the public, but also the federal and state agencies.

The other significant component is that the environmental documentation which is, under the traditional

process, initiated after FERC receives an application -- that environmental documentation, environmental review process now, under the alternative process, takes place much earlier in the process. It takes place simultaneous with the development of the application itself. And that, in fact, is what we're doing here and now. We have had work groups meeting for the past year identifying issues. We are now at the point where we are kicking off the environmental review of the process as well, and that is what this scoping meeting tonight is.

We've actually decided to combine the federal review, the NEPA portion, with the California Environmental Quality Act as well; so we've got a joint NEPA/CEQA process that we are starting.

I think many of you received our Scoping Document 1, which explained this in a little more detail. But what we hope to do -- as this slide here illustrates, we're identifying issues. We're, through the work process, starting to develop the studies, and those studies will lead to conclusions that will help us with proposed protection mitigation and enhancement recommendations which, in turn, will lead to license conditions.

And, again, the last bullet is very important. We are trying to come to agreement with stakeholders, which includes the public, and the federal and state agencies, and Indian tribes as well. We are trying to come to agreement on

what the terms and conditions look like in DWR's new license. And, again, that new license can have a life from anywhere from thirty to fifty years.

I mentioned the words "group process." And, again, I think there's many people out in the audience that are probably able to speak of this structure as well as I can now. As I say, we've been in this structure for almost a year now. But what we've done basically, as you can see in the bottom row there, is we've identified specific work groups that address the primary resource issues that are being analyzed or addressed in our application.

If you were to look at the table of contents of an application for new license, you would see specific areas or specific chapters that address each of those resource areas. So the department, with the help of the stakeholders, has formed work groups that are dealing with the issues in each of those specific areas.

We've also formed the plenary group, which has overall responsibility for trying to integrate all the different studies and conclusions that are coming out of the specific work groups. The plenary group is a good way of providing an overarching view of the specific work groups.

I mentioned briefly some of the participants that have been part of our process. This list here, which I won't go through item by item, gives us a little more detail on the types of participants that have been active in our work group

process. We also actually have a contact list that I believe numbers about thirteen hundred now. And, thankfully, they don't all show up for work group meetings; but we do have a pretty good turnout at the work groups.

This slide here gives us an overall view of our schedule. And again I mention that 2007 is when the current license expires. And kind of looking at this backwards, we have to file -- according to federal law, we have to file the new application two years before expiration of the existing license, so that gets us to 2005. We are trying to work toward having a settlement agreement in place in the year 2004.

And, again, in order to support the conclusions or the proposals that we would see in a settlement agreement, we are conducting studies over the next two years which would analyze the specific issues that have come up, not only in the work groups, but any issues that we identify here today.

So, as you see, we've actually just started the process. And we've made a lot of progress. But the reality is, we still have a lot of work ahead of us as well.

And I'm going to go over the next couple of slides a little bit quicker. But, again I mention that we have distributed Scoping Document #1. And there are copies, I believe, out in the lobby for those of you that may have not of yet received your own personal copy. But if you have a chance to look at Scoping Document 1, you'll see a

list of the issues in the appendix -- issues, concerns that our work group has identified. And that was distributed September 27th.

And, as you can see here, we had a site visit earlier this morning to help familiarize participants with the Oroville facilities. I believe, in fact, that was our third -- third site visit. We had at least two -- two tours as part of the work group process. And so this morning's tour, which I understand went very well -- in fact, ended literally minutes before the rain started -- was well attended by about twenty-five or thirty folks.

As I said, the work groups have already been hard at work identifying issues. And we have quite a list of issues. I'm not going to go through them in detail here, but I will -- I will just give you some representative issues that -- that are on the slides in the area of recreation and social economics. I think you can read some of these. We're going to look at the adequacy of the existing project recreation facilities. Is that meeting the need that is identified for this area? We're also going to try to identify appropriate project related recreation funding development, and perhaps management structure.

The phrase "project related" is very important, because essentially what we're trying to get at is what impacts have the operation of our facilities had on these specific areas. There are broader issues out there, I think,

that some folks have identified. But we always try to identify -- and some folks have heard this word plenty of times -- we try to identify the nexus of the issue to project operations. Because ultimately that is all we can address is how our project operates. That is all that FERC itself can address. That is where its jurisdiction lays is within project operations.

In the area of geology, we're looking at the project effects on channel capacity and the potential need for more storage or flood protection. There's water quantity and quality. There's terrestrial and there's fisheries as well.

By the way, I forgot to mention that this slide presentation will be available after the meeting. Well, I think it will be available on our web site for those who have access to that web site.

We have engineering and operations issues, land use, land management, and aesthetics. Cultural resources is very important in the relicensing process. And we'll be looking at that.

So that, in a nutshell, I think, in twenty minutes, is kind of the context for what we're doing tonight.

In a few minutes we'll have Mr. Tim Welch ~~(phonetic)~~, who is with the Federal Energy Regulatory Commission staff, and he'll give a few -- give you some information on the FERC perspective of relicensing and scoping process.

And then we'll have Patti Kroen, who many people recognize as the facilitator of the work group process. She will help guide us through the procedure for submitting public comment.

I think I failed to mention that we do have a court reporter that will be taking down all the comments. That is part of the formal process for meeting the requirements of the scoping -- the scoping meeting and the scoping document.

And the Department will respond to those comments that we receive tonight.

And I believe that concludes my portion of the presentation. So, thank you. And I'll turn it over now to Mr. Tim Welch.

MR. WELCH: Thanks very much, Rick.

As Rick said, I'm Tim Welch with the Federal Energy Regulatory Commission. And on behalf of the commission, I'd like to welcome everyone here to the Oroville Project Scoping Meeting. I'm just here today -- or, tonight to just give you a little bit of brief background about who FERC is, sort of how we're set up; and also talk a little bit about the alternative licensing process, which this is, and sort of how it differs from our traditional process; and then a little bit at the end about the kinds of information that FERC is looking for from this entire scoping process.

(Discussion off the record; speaker's request re: slides)

MR. WELCH: Okay.

FERC is the interstate regulatory authority and, as such, we regulate electric power, natural gas, oil pipelines. And the reason we're all here tonight is the hydroelectric facility. As Rick mentioned, we regulate all the non-federal projects in the U.S.

Now, the commission itself is made up of five commissioners that are appointed directly by the President. Right now our chairman of the commission is Pat Wood (phonetic), from Texas -- no surprise there -- and he was recently appointed by President Bush. Now, I work -- myself, within the commission, I work for the Office of Energy Projects. And we actually administer the non-federal hydro program; and we issue and reissue licenses to operate hydropower projects from thirty to fifty years. So that's who I work for.

Now, we have -- I'm from the Washington, D.C. office, which is our headquarters. We also have five regional offices in Atlanta, Chicago, San Francisco, Portland -- and Portland, Oregon; and that houses primarily our inspection team as far as our division of dam safety is concerned.

So the Office of Energy Projects is made up of four major divisions: Environmental and Engineering Review, which is where I'm from; Hydropower Compliance and Administration, which looks at existing licenses; and Dam Safety and Inspections, as I remember four; and the Gas Pipeline

Certificate. So this is a pretty recent thing for us, that we are now one office with both gas pipelines and hydro in the same office.

Now a little bit about the licensing in general. How is the public involved? Through the Federal Power Act, the comprehensive development, section 10A and 4E -- and this is sort of our -- this is our goal in relicensing is to determine that a project to be licensed is best adapted to serve the public interest.

Now, a lot of -- Rick mentioned earlier or talked a little bit about balancing. I have a little trouble with the word "balancing." We weigh issues. So maybe things aren't perfectly balanced between non-power and power. It can go -- it can go any different amount of ways. But the important part of this is we strive to make sure that it is in the public interest. And that's why the commission has developed this alternative licensing process, so there are plenty of opportunities throughout the process before filing and after filing for public involvement.

Now, our process can be very complex at times. Not only does it involve the Federal Power Act, an Act of Congress, but all of these other Acts of Congress can play a role in the relicensing of a project. The reason we're all here tonight, NEPA, the National Environmental Policy Act -- when we do our environmental impact statements and environmental assessments, the Clean Water Act comes into

play with the issues we know of, 401, Water Quality Certification, the Fish and Wildlife Coordination Act. As a federal agency, we are required to coordinate with other federal agencies that are involved with the Fish and Wildlife, most notably the Department of Interior's Fish and Wildlife Service; The Endangered Species Act, something that has come more and more into play in relicensing; National Wildlife Preservation Act; Cultural Resources; sometimes Coastal Zone Management Act; the Wildlife and Scenic Rivers Act. So there's a lot of different federal statutes and acts that come into play in relicensing.

So we have two licensing process options: What's called the traditional licensing process; and then what we've -- our more recent rule-making which created the alternative licensing process, sometimes called the collaborative licensing, which is what DWR has selected for their relicensing project.

So I'd like to represent our process. This is our traditional process. And I go into a lot more detail typically when I talk about the traditional process with people, but I'm just going to give you just this very general brief overview. We put it in a form of a circle.

We're beginning -- could you hand me that -- beginning with the pre-application process. And what the applicants typically do is, three to five years before their license application is due with FERC -- which is here at the

top, they go through what's called a three-stage consultation process. And that typically involves just the other state fish and wildlife agencies, tribes, and other agencies. And what is there is one -- regulations in the traditional process call for at least one public meeting. But the rest of it is exchanging letters and documents and study plans back and forth and getting comments from these agencies through the mail so they can put together their application.

Once the application is filed, then FERC takes time to do its NEPA process, whether it's an environmental assessment, and then it comes up with a licensing decision.

Now -- now back in 1993 we had a super glut of projects that all expired around the same time. As a matter of fact, we had a hundred and fifty relicense -- these aren't new -- relicense applications that were filed in 1991 and made up the class of 1993. The problem was that ninety-four percent of them, the commission staff felt, needed additional information; the studies were inadequate; they didn't have the information that the commission staff felt like that they needed in order to make a good public interest decision.

So FERC went out with additional study requirements for all these applicants. And that took -- because some environmental studies might take two or three or maybe even four field seasons, that took a lot of additional extra time. So we only completed fifteen percent of those by the actual expiration date of the license.

Right now we've completed at least a hundred forty-three of them. But eighty percent of the ones we finished had rehearings. And rehearings are when they come -- once the license is issued, people have the right to ask for rehearing, which begins a whole litigative process, while we still have fourteen remaining because of 401 issues and ongoing settlement negotiations.

So we came to a few -- a little bit of a conclusion that our traditional licensing process was just taking too much time. We felt there was too much wasted time. And because of all the rehearings, it was much too contentious.

So we sort of put our heads together. We created this alternative licensing process. And we decided -- because a lot of people in the public and non-governmental organizations were unhappy with the process, we decided to expand the participation of the FERC regulatory process beyond the traditional Fish and Wildlife Service and State Fish and Game agencies and tribes, and we tried to set up a process where we could resolve conflicts and try to accommodate all of the interests of the participants.

So what we try to do -- our goal is to, what we call, front load NEPA; get the NEPA document something that the commission staff can sort of wrap their arms around when the applications come through. We try to get NEPA at least started during the prefiling.

And that's why we're having the scoping meeting here

tonight prior to when DWR files their application, so we can facilitate an evaluation of all stakeholder interests early in the process, and hopefully leading to expediting the entire process.

So going back to our circle, we begin the ALP, alternative licensing process; and it's done by an ALP team. And the ALP team here is the plenary and all the work groups that Rick presented in his talk. And hopefully that will lead to the resolution of many issues; so by the time the application is filed with FERC, it's turned over to our team and we can get much more quickly to a license decision.

So getting a little bit more detail -- go ahead -- these are the kinds of things that used to be over here that we have moved over here, collaborative meetings and scoping probably the biggest one. Everyone here in this room knows the number of meetings that are going on in this collaborative process where they're developing study plans.

Soon you'll be conducting your studies and issuing results, getting comments within your work groups, determining if more studies are needed. So the ultimate goal is for this preliminary DEA and also hopefully recommendations and draft conditions from some of the resource agencies as well all prior to the application being filed, so that once the application is filed with the preliminary DEA, commission and staff can use that to form the basis of its own EA, which we're still required to do

under NEPA. Hopefully this will lead to a quicker license decision, because many issues hopefully will be resolved.

So I'm not going to go over this in tremendous detail. But here are the big differences between traditional and alternative. Traditional, very regulatory in design. The regulations say specific comment periods of no more than sixty days. It's very -- as I said, very regulatory.

The alternative, you decide -- you decide when the study plans are going to be completed, when the comment periods are going to end.

Traditional is driven by letters, things in the mail. Alternative is driven by meetings.

And here's probably the biggest difference. The traditional process is -- involves applicant and agencies. Hopefully the alternative process has more local solutions, so to make settlement more likely.

Now, we're -- hopefully, with moving this process along, the environmental benefits will likely be realized much sooner than they will be in the traditional process, which often have to wait for months, and sometimes years, of litigation.

And also in the alternative process we have much more FERC staff participation. It's much more limited in the traditional sense.

So what do we have so far with the ALP? So far we've licensed twenty-one projects that have used the

alternative licensing process. And our process is seven months to two years with a seventeen month average, down significantly. This was probably three to five before the alternative licensing process.

Right now we have ten projects in front of us that have ALP applications. And currently thirty-six projects, of which this is one, are using it in the prefiling stage of an ALP.

So, once again, we're -- hopefully this is going to lead to less need for additional information, that all the studies that are going to be completed, the ones that are necessary for FERC to make its public interest call, will all be done early in the process and that will lead to fewer rehearings.

So what are we looking for today? We're here to identify some -- identify the issues that you're going to need for your preliminary DEA and FERC's also going to need for its EA. So you're here to solicit information. Maybe not so much with this one, the depth of the analysis that's beginning to emerge with some of the work groups -- we're probably not quite there yet.

Same with cumulative impacts. We're just beginning to identify cumulative impacts, which we need to do under NEPA and looking for reasonable alternatives to the project.

So we're looking for your comments basically tonight.

Okay?

I'm available for any questions. I don't know if we have a format where we are taking questions now, but I'll be available after the meeting.

I would refer you to the FERC web site which contains a lot more of this information. It's www.FERC.gov. I also have some cards here with my e-mail address if you have questions about any part of this process and how FERC fits in.

I'd also like to mention that there are two very excellent documents available on the collaborative process and the roles that people play and some case studies of some other processes as well. One of them is put out by the Electric Power Research Institute, EPRI. And that can be found on their web site. You probably just type in the key word and you'll be able to get there. And the other one was put together by the Interagency Task Force, which is a group of federal agencies, including FERC, that put together some guidelines for the alternative process as well, and that's available on the FERC web site. So I would refer you to both of those documents which will give you a lot more information about the alternative licensing process.

Thanks.

PATTI KROEN: Good evening. I'd like to add my welcome to all of you. My name is a Patti Kroen. And it has been my pleasure for the last year or so to be facilitating

the meetings associated with the Oroville relicensing collaborative. Lots of familiar faces out there. My job tonight is a similar one, to facilitate the public comment process.

We do have some ground rules. Those of you who know me know I always have ground rules. The ground rules are that you're to approach the microphone when called.

I have a list of those of you who indicated when you arrived tonight that you wish to speak. It's a -- it's a list of seven. First in, first up. So I will read the list of names and ask you to approach the podium down here.

Please provide your name and your affiliation, if you have one. That's for our court reporter. Please help her out, because her job here is to make sure that she gets an accurate recording of what you have to say. We want to make sure we have it correct. You won't -- your time won't start while you're getting your name straight, so make sure that you speak clearly and loudly and concisely so that she can take down what you have to say.

One bullet says that we're going to limit verbal comments to four minutes. I think I'll be a little lax on that tonight since we have seven folks who have asked to speak. But I would also ask you to please keep your comments as concise as possible so that if others in the audience do wish to speak and haven't signed up, we will have some time left over for them.

If you haven't signed up to speak but you decide now or in a few minutes that you do have something to say, I'll have some time at the end and allow you to come up and you'll be able to speak, too, okay?

If you leave here tonight and on your way home you think of something you wish you'd said, or tomorrow you decide you have something you wish you had said, it's not too late. You can write it down. Written comments are encouraged. They will be accepted until November 26th, I believe, is the cutoff time for comments to the scoping document. There is, in the packet that you received when you signed in, a comment sheet; and it has an address on the back of it so you can fill in your comment. Just fold it over and mail it in, if you wish. If you fill it out tonight and you want to leave it with us, that's okay, too. We'll take comments any way you want to give them to us, just about.

I'd ask you to focus your comments on the Oroville Relicensing Project. That's what we're here for. So identify any relevant information, any new issues or a level of analysis that you think is appropriate.

There's some ways to contact us. You can phone. You can use e-mail. You can go on line to the web site. Or you can use an old fashioned address and send it through the mail. I think, at each of the tables out in the lobby there are a stack of Oroville Relicensing business cards, and all of this information is on that card. It's also in the packet

on the comment sheet that you have. And it's also included in the scoping document. So you should be able to figure out a way to get your information to us.

The written comments will be dealt with the same as oral comments. They carry no different weight. So if you don't speak tonight but you do decide to submit written comments, that's perfectly fine.

If you do have comments you've brought with you and that you'd like to read into the record, you can summarize them and provide those written comments to us so you don't have to read the whole thing; and we'll be happy to take those. Again, I think there are pumpkins -- festive touch -- out on the tables that you can put your comments into those pumpkins, and we'll promise we'll keep them.

Okay. So ground rules: Come up to the podium; give your name, make sure that Tag has it correctly and spelled correctly; and your affilliation; and then provide your comments. There's a little timer gizmo on the podium. I'm not going to start it, but I'm going to ask you to keep your comments to the four-, five-, six-minute range, if you would. And if someone gets out of hand, John's going to drag you out.

Okay. So here's the list. Robert Fehlman will be first. Floyd Higgins, Ron Turner, Rob MacKenzie, Peter Maki, Mike Kelley, and Ron Davis.

If you forget the order, I'll remind you when you

get started.

So, Robert, you're first.

MR. ROBERT FEHLMAN: I'm Robert Fehlman, Manager of the Western Canal Water District appearing with Doak Cotter, Manager of the Joint Water Districts consisting of Richvale Irrigation District, Butte Water District, Biggs --

(Discussion, off the record; reporter's request)

MS. PATTI KROEN: Spell your name.

MR. ROBERT FEHLMAN: Do you want to spell the names? All right. Robert Fehlman, F- -- as in Frank-- -E-H-L-M-A-N. Doak Cotter, D-O-A-K C-O-T-T-E-R. Okay?

The Joint Water Districts are located in Butte and Sutter Counties, and Western Canal Water District is located in Western Butte County and Eastern Glenn County.

We're appearing before you this evening specifically to request that FERC address our problem, which is crop damage resulting from dramatic drops in the temperature of water delivered by DWR in its operation of the Oroville Dam and Reservoir from the Thermalito Afterbay. We ask that FERC address this problem by adopting a license provision requiring DWR to ensure deliveries of irrigation water from Thermalito Afterbay at temperatures suitable for rice propagation and production, specifically, at least sixty-five degrees during the four-week planting permit and at least fifty-nine degrees Fahrenheit for maintenance and tillering water until the irrigation season is completed, which is

approximately on the 31st of October of each year.

Our request is based upon DWR's obligations under its 1969 Agreement with the Joint Water Districts and its 1985 Agreement with Western Canal Water District, as discussed in our letter to DWR Director Thomas Hannigan dated February 1st, 2000, which I submit to you now as Exhibit "A-1" through "A-24." Exhibit "A" specifically references Paragraph six of the 1969 Joint Water District's DWR Agreement which states in part as follows:

Quote, "This Agreement does not relieve State or its officers, agents, or employees from liability to or from damages to Districts or third parties rising out of failure of State at any time to comply with this Agreement or the diversion schedules or notices give by Joint Manager pursuant hereto or from injuries to crops or production of crops due to reduction in temperature of water available to Districts during any portion of any irrigation season or seasons as a result of water released from Lake Oroville being colder than water that would have been available in the Feather River for diversion by Districts if Oroville Dam had not been constructed. Nothing in this Agreement shall be construed as an admission by State that a reduction of the temperature of water available to the Districts will in fact cause an injury to crops or production of crops."

It is critical that irrigation water delivered pursuant to the 1969 Joint Water District/DWR Agreement and

the 1985 Western Canal -- PG&E -- DWR Water Diversion Agreement -- being released from the Afterbay into the river at a temperature which does not fall below sixty-four degrees Fahrenheit -- "

(Discussion, off the record; reporter's request)

MS. PATTI KROEN: And, Robert, am I correct, you have this --

MR. ROBERT FEHLMAN: I have this --

MS. PATTI KROEN: -- same text --

MR. ROBERT FEHLMAN: That has been submitted in writing.

MS. PATTI KROEN: -- that you've submitted in writing?

MR. ROBERT FEHLMAN: Yeah.

(Discussion, off the record; reporter's request)

MR. ROBERT FEHLMAN: -- during the four-week germination stage and/or planting stage for rice and does not fall below fifty-nine degrees Fahrenheit during the maintenance stage for rice, releases under the control of DWR not inclusive of weather.

Additionally, at the initial germination or planting stage, it is estimated by the Rice Experiment Station that a combination of ground and water temperature which: one, falls below fifty degrees Fahrenheit will kill the plant; two, falls between fifty degrees and fifty-five degrees Fahrenheit will produce very low germination activity causing

the plant to damage or die; and, three, falls within fifty-five to sixty degrees Fahrenheit will cause low yield and seedling production.

During the initial germination stage, the temperature of the top four inches of soil inundated with irrigation water is critical. It is not recommended that rice be planted when the combined temperature of water and soil falls below sixty-five degrees Fahrenheit.

Additionally, please review the brochure produced by the Department of Water Resources for State of California at the time of the building of Oroville Dam and Reservoir. The brochure fairly supports the reasoning we submitted to DWR Director Thomas Hannigan in our letter of February 1st, 2000, which is Exhibit "A." With regard to agricultural production of rice within our Districts the brochure reports -- states in part, quote, "The University of California has demonstrated that rice -- "

MS. PATTI KROEN: Slow --

MR. ROBERT FEHLMAN: Slow her down. All right.

"The University of California has demonstrated that rice plants thrive best when the temperature of irrigating waters range from fifty-nine degrees to seventy-seven degrees Fahrenheit. Even within this critical range, temperature fluctuation vastly affects the harvest.

With a proper outlet structure of Oroville Dam, the temperature of releases can be controlled to serve the

agriculture interests of the area," unquote.

The foregoing brochure was referenced in our letter to Director Hannigan of March 21, 2000, which is submitted as Exhibit B-1 through B-17 in our letter of February 1st, 2000, which is Exhibit "A." We state our concerns with the obligatory contractual requirements set forth in our contracts with DWR, which is mentioned in DWR Representative Jim Spence's letter of September 14, 1999, to Gary Sterns (phonetic) of the National Marine Fisheries Services where Mr. Spence writes, quote, "As described in the attached comments from the Oroville Field Division to me, assuring substantially colder water conditions in the flow channel to a compliance point at Robinson Riffle, river mile sixty-one point six, requires water releases to be colder or greater or both. Release of water cold enough to meet the objective will certainly conflict with the 1983 Agreement with California Department of Fish and Game and for operation of the Oroville Diversion of the State Water Project for Management of Fish and Wildlife. Such releases of cold water will also conflict with a 1969 water rights settlements with Richvale Irrigation District, Biggs-West Gridley Water District, Butte Water District, and the Sutter Extension Water District.

Water temperature was an important factor in the design and construction of the Thermalito Afterbay facilities. Operation outside of the range of existing

written agreements does not seem to me to be a reasonable measure involving only minor changes to the project. To some extent, large flow increases in the low-flow channel could substitute for colder initial water temperatures, but would then necessitate varying the flow in contradiction to the second basis objective, stability," unquote.

Finally, we ask you to review the eight examples of reduced rice production yields developed during the 1999 irrigation season due to colder water temperatures, which examples are set forth in Exhibit "A-5."

We thank you for the opportunity to present our concerns to FERC and again ask that these concerns be addressed by FERC during the relicensings of the DWR Hyatt Power Plant's Facility in Oroville.

Thank you.

MS. PATTI KROEN: Floyd Higgins.

MR. FLOYD HIGGINS: Good evening. My name is Floyd Higgins. I belong to the Oroville Radio Control Model Airplane Club. And we are seeking site improvement from an existing site. And my title is Field Site Chairperson or lead person. And I'd like to give a brief description of our model airplane club.

We've been in an Oroville for approximately twenty-five years. And we're a very small part of the recreational infrastructure of this city. And our membership averages around ninety plus; and they come from Chico,

Paradise, and Marysville, and Richvale, and outlying areas. And the type of airplanes we fly is a radio-controlled basic models and helicopters radio-controlled, sail planes. And we also have a group that participates and flies in what we call -- they call Society of Antique Model Planes, construct and fly airplanes in the thirties and forties, have that type of competition.

We have monthly meetings that are held in different places, it depends on what time of the year. We hold them at our field site at Oroville Road (phonetic) during the summer time and we have flying. In the winter time we have different, alternate locations because of the weather. And we have a site at Oroville Road, which is a -- we have a twenty-year dollar-a-year lease agreement with the Department of Water Resources. And we have preliminary -- we started within the last five years site improvement; and we would like to have them brought up to -- just to our standards. And we have -- this year we have had three meetings or meets, sanction meets, that we weren't able to hold before, because we have safety improvements that DWR provided for us.

But we would like to have a nicer field. When we look at other people's, we'd like to have ours on par with theirs.

And about the only comment I have is with the -- I picked this up later when we was going through the presentation, that we -- our committee is very happy with the

process, the way it's going. We feel it should have some fine tuning, as it might be. And the two bullets it showed, it has to be preparation with your consultants and everything. And right now, even though we are on the twenty participant list, our presentation might -- I feel, has been done fairly, and we would like to have some input. And we have a committee in which I'm part of in our club, and we would like to have some input into making realistic bids and to put down on the site which things are realistic.

Consultants haven't done a very good job. They set there in the office in the Bay Area and call us on the phone and talk.

And we'd like to have someone with an on-site and we can present some preliminary blueprints, which we already have in the process of having primary -- and to work those up. And we'd like to present them and help in this process. And -- and the bullets up there, it says -- we'd like to contribute to the process and for a good, equitable agreement and something that everybody would like. I think that we could contribute, our club, along with in conjunction with the process.

And there's a timeline there that showed it's getting ready to go to the next stage. And we feel that we could help them greatly with our input to bring it to the next stage.

Any other questions?

(No audible responses)

That's it.

MS. PATTI KROEN: Thanks.

Ron Turner.

RON TURNER: All right. You heard my name, Ron Turner.

I have a team here which consists of Ray Bell, M.D., and Floyd Higgins, and myself. I represent the Oroville Foundation of Flight. We're affiliated with the Oroville Chapter of the Experimental Aircraft Association. That's your EAA group of citizens here.

Our chapter and foundation meets monthly and participates in events, as well as learning and teaching various aspects of aviation to young and old citizens at our vinyl briefing hut adjacent to the golf course on the Oroville Airport property, where the public is always invited and welcome, especially during our monthly fly-in breakfasts. These are held on the third Saturday of each month.

Our mission here in the Oroville area is to bring awareness and the joy of flight to the young and old alike and for their understanding of aviation in general.

Along with that, we would like to ask that, in the future, general aviation would be allowed to expand and grow; that's on land as well as the waterways that we have available here. A year-round base to accommodate seaplanes on the Afterbay waterway is what I'm asking for -- or, what

we're asking for.

To begin with, you bring up the factor that should be considered in the choosing of a seaplane base here in Oroville. The reason why is presently there does not exist any seaplane bases between San Francisco and Portland, Oregon. Float planes must refuel at general boating marinas, mixing with boat traffic, maneuvering around upright signs and fuel dock pumps, as well as being offered low octane fuel instead of high octane aircraft fuel.

Seaplanes could contact the local flight base operator by radio in flight and arrange for dockside fuel delivery during their flights in and through this area, if we could establish a seaplane base here in Oroville. This would be adjacent to our airport and the Afterbay.

Over the past three years during our aircraft events, such as the Starduster Biplane Open House fly-in and presenting the B-17 Bomber, The Aluminum Overcast, to citizens of Oroville, we have accommodated float planes for the public to enjoy also.

We found that the site we have chosen is relatively clear of heavy boat traffic and has a relatively low count of wildlife to disturb and meets all FAA requirements in size, depth, approach and departure pathways.

The addition of a seaplane facility in Oroville should bring about aviation events and encourage the development of float plane activities and public

participation --

(Discussion, off the record; reporter's request)

-- for the locals to enjoy and encourage the development of float plane activities and public participation in these events here in Oroville.

I have a folder with aerial photos of the area we've chosen for anyone to review. And also, I have included in that, comments that were -- and requirements that were taken on the Seaplane Pilots' Association web site. These explain the environmental impact studies that have been conducted on this area. Also, we have for view the float plane harness and float assembly here in the lobby for you to view afterwards.

And I thank you for your consideration.

MS. PATTI KROEN: Thanks, Ron.

Rob MacKenzie.

MR. ROB MacKENZIE: I'm Rob MacKenzie from Butte County. My last name is M-A-C-K-E-N-Z-I-E.

I just have a couple of brief comments with regard to the issues on page thirty-three of the scoping document.

(Discussion, off the record; audience request for volume)

-- with regard to the issues on page thirty-three in the scoping document, LM1 has to do with staffing needs for managing the recreation area. And I'm interested in making sure that issue is addressed in terms of keeping public access open for all the recreational facilities at all times

to the greatest amount of people possible.

With regard to LM3, which has to do with coordinating land management; and LM4, which has to do with appropriate law enforcement activities, what I'm interested in seeing is a coordinated law enforcement plan designed to address law enforcement problems endemic to the recreation area. And, once again, that would hopefully facilitate addressing law enforcement needs and also keeping the recreation area open to the public, all the recreation facilities, so that we don't just close them -- because we have a problem with an area, we just don't close that area to the public.

And then I have two questions.

First of all, this scoping process document has a flow chart on page eight, and it has to do with the comment and review process. And I want to know if the comments that are received tonight and up through November 26th are actually going to be routed to the work groups so that they can be incorporated to the work groups in the study plans.

(Inaudible comment, off the written record)

Okay. They are. All right.

And then, secondly, with regard to the consultants that are hired to do the study plans: Are the work groups going to have approval authority for the consultants that are hired to do the study plans?

MR. RICK RAMIREZ: No. The consultants are already

hired.

MR. ROB MacKENZIE: They are. Okay.

MR. RICK RAMIREZ: But the work they do will be part of the review process.

MR. ROB MacKENZIE: Okay.

Thank you.

MS. PATTI KROEN: Thanks, Rob.

Peter Maki. Peter Maki?

(No audible response)

Okay.

Mike Kelley.

MR. MIKE KELLEY: My name is Mike Kelley. And I came here without the intention of speaking, as I said to you at the beginning of the process. But there was something that Rick said that kind of triggered me. And this is in your introduction in the executive summary of the initial information packet. It says, "The California Department of Water Resources, DWR, is the owner and operator of the Oroville facilities, a multi-purpose water supply, flood control, power generation, recreation, fish and wildlife and salinity control project." And the indication that I received from Mr. Ramirez' statements was that the -- there was community involvement in each one of these articles of the concept of the operation of the dam.

Now, the one thing that I am really interested in for this community is providing energy for the manufacturing

portion of Oroville. And this is only limited to the Oroville sphere of influence. I, last February, kind of requested a meeting with Mr. Ramirez, which we did. And we met and we started the inception of the concept of providing energy for the Oroville area. And one of the predications of having it was the direct delivery process.

And had the Department acted upon it and in an expeditious manner, such as they said that they would -- and the Department themselves asked me to put this into the interim projects. I was a little reluctant to do it, as you remember when you asked me to do it, but I put it in the interim project portion of things. And one of the reasons I didn't want it in the interim project was because I was requested a confidentiality agreement on it. And we proceeded with that.

And I said to Dave Byrd (phonetic), at the time that we first started on this, that they're going to delay this until the Department of Water Resources takes over the P.U.C. and there will be a denial then on direct access and it will be delayed until then. And we went into it that with the understanding that that's exactly what was going to happen.

Now, had it been done strictly on that basis, I could have accepted it; because I expected it to happen and I expected to have to take it -- as I said to Tim Welch when Tim was out, that I expected I was going to have to come back to Washington and put a request before the FERC board of it,

which I intend to do, Tim.

But the problem is that when the letter came back from Mr. Ray Hart (phonetic) -- who never attended one meeting with Mr. Ramirez, Mr. Byrd or myself -- and the letter came back and it stated, one of the reasons why they were denying it was they were not equipped to provide retail energy for anyone.

Now, we never requested retail energy for anyone. What we requested was energy at cost from the Department of Water Resources, which is in the area of millions. And had we been able to do it -- I had already spoken to somebody from PG&E who were willing to go along with it as long as we were not going after domestic users of electricity. As long as it was going to be strictly for manufacturing, they were willing to at that time to go after it.

And I expressed these things to Mr. Ramirez, at the time, that an expeditious movement of this would be very, very important to us.

In the meantime, prior to the letter of denial coming from Mr. Hart, we met with Roplast. And Roplast is an employer here of approximately two hundred to three hundred employees. And they had been given an offer from a Riverside County to come down there and receive electricity at the rate of about a nickel a kilowatt.

Now, what we were interested in getting from the Department of Water Resources was approximately twenty-five

megawatts to begin with, and up to a maximum of fifty megawatts would be the maximum amount that we wanted. And when you're dealing with a seven hundred and sixty-two megowatt output of the Oroville facilities here, we're dealing with less than three percent of their output. And I felt that it would be like throwing a dog a bone to give us this, and let us save what little industry we had around here and recruit industry to bring jobs into an area that has double digit unemployment and has had double digit unemployment for many, many years and has double digit unemployment when the rest of the country has been enjoying single digit unemployment. This is a very important factor to us.

And when I saw what Mr. Ramirez was presenting was that power generation was an important factor around here -- recreation is an important factor around here. And we immediately moved into the area of accepting that as a benefit to us. And if power generation is a portion of it, then the local community that live under the spout where the water comes up should have access to some of that power generation. And when it's less than three percent of it, I don't think we're asking for too much.

What I would like to do, when I get the things ready and when things calm down back in Washington, Tim, I will be back there and I'll be asking you to arrange the appointment for me. And I'll get a hold of Vice-President Cheney to

instruct you to allow me to come back and make a presentation to FERC.

I went the first round under the Department of Water Resources' rules. The second round is coming up, and they're going to be under Mike Kelley's rules.

Thank you.

MS. PATTI KROEN: Thank you, Mike.

Peter, you're up.

MR. PETER MAKI: Good evening. My name is Peter Maki. I belong to many different groups, but tonight I speak as a citizen of Oroville. And these comments I'll also be sending to the address listed.

Local recreation interests have been at the Oroville relicensing meetings since the beginning. I'd like to make several points --

The first being: We were told, since the beginning, that we were stakeholders in the process. Tom Glover (phonetic), field chief, now tells us that DWR will choose which projects it will fund. As stakeholders we have been discounted.

Second, employees and representives of DWR have been hostile to local groups and individuals who have championed projects that will potentially cost DWR money.

Third, DWR has been a poor land user. Dangerous fuel loads exist on state lands controlled by DWR. DWR controls excess land that could be better served to the

taxpayers through recreational usage.

Fourth, DWR contractors have deliberately made the relicensing process burdensome and time-consuming in attempts to discourage local involvement.

Fifth, DWR and, indeed, FERC discount bulletin 107-6 and are in denial as to the recreational build-up promised to the Oroville community in the 1960s.

Sixth, Ward Tabor advised the plenary of DWR's goals to obtain the license at the least possible cost. It has become clear to the local stakeholders that both DWR and water contractors will do everything within their power to obtain the license at the least possible cost.

And so, at this point, on behalf of interests in Oroville -- Oroville Community, I throw in the towel.

Thank you.

MS. PATTI KROEN: Ron Davis.

MR. RON DAVIS: Ron Davis, California State Horseman's Association, Region two. That's our local region.

California State Horseman's Association is an equal opportunity association. We do allow mules.

I've been going to most of these meetings, and in my experience, DWR has been very cordial in working with the public.

I do think they're a little bit hesitant to admit to the extensive environmental effects of this operation. But they're flexible and they have a global caveat in what

potentially could be studied down the road. I'll be able to make some comments about that in writing.

But I'm going to limit my comments to the socio-economic and recreational aspects in regards to the equestrian concerns.

My main concern is what I have heard at these meetings the claim that the Oroville facilities are perceived by FERC as being in full compliance. A major concern with the community is the perception that promises were made of a greater recreation development than what we've seen.

FERC was gracious in their scoping document to put one sentence in for me about this.

I'm convinced that the concerns and the perception of the local community is accurate and based on facts. There is a recreation development management plan for DWR and for the State Parks who -- I'll call them a contractor for recreation -- that are in effect now that were written a long time; but I haven't seen them coming to the meetings. I haven't seen them being put out for the public, so -- and I haven't seen them be a part of the scoping document. And that's a shame.

The old recreation plans we're still operating under called for equestrian centers for recreational use. And I don't believe they were built.

We did get a wonderful horse camp, although it hasn't been really been put out to the public of the state

that it's here adequately to ensure the use that it has the potential for. But it's a great facility. But when I read "equestrian facilities," I envision a little more than the horse camp.

So we've been trying to work to get a larger type facility, multiple-use actually, where the horse people could share with the bicycle people and whatever, concerts, along the lines of a rodeo grounds on one side of the river and on the other side rental stables, something which can get people who don't own horses to enjoy the beautiful area here.

Okay. So my main concern is we don't think full compliance has been achieved.

My other major concern is, although DWR is responsible for the recreation management here, the way it's operating is the State Parks is in control. And, unfortunately, DWR is responsible; and I don't think they're happy the way State Parks is operating. State Parks is representing themselves at these meetings. They tried to say what their involvement is in this relicensing process, but what came across was a twenty-minute lecture on where they get their powers from and what they can do. They didn't really say what their goal is in the relicensing.

They promised to keep us informed of what they were up to on the trails on their short-term plans while this license is being drafted. They have failed to do that. There's new trails been constructed with no announcement to

the public. And it's a crying shame.

I asked the local district superintendent if they intended to comply with the recreation plan that the public was involved in through this relicensing process; and I was told, "If we think it's appropriate." Well, I don't think that's appropriate.

This is an alternate process. And it's very nice, a very good opportunity for the local community and the statewide citizens to have an involvement in what happens here with recreation. And we don't want to miss it. I think there are some big concerns here. And it's a difficult process for the local people to be involved. We're dealing at these meetings with people that are paid full-time by the government. And it's very difficult.

But I want to thank DWR for the opportunity and their graciousness in exploring new ground in the alternative process. I want to get these issues resolved and go beyond the promises of thirty years ago and have first class recreation development at Lake Oroville.

Thank you.

MS. PATTI KROEN: Certainly.

That concludes the list of folks who signed up to speak.

Is there anyone who would like to speak now who didn't sign up?

It looks like Kathy Hodges (phonetic).

MS. KATHY HODGES: On a good day or a bad day?

MS. PATTI KROEN: Tonight.

MS. KATHY HODGES: Equestrian Trail Riders and Hikers and advocate of Oroville recreation.

The alternate -- alternative -- alternate relicensing process is a method by which we are supposed to have public input. Thank you.

I kind of have to echo Ron's sentiment. DWR has given control of the recreation area to State Parks.

State Parks is not interested in having public input or general public input. They're interested in public input from folks that they select that agree with them. I think that attitude needs to change.

That attitude has generated a desire on the part of a lot of local people to take control away from them and give control of the recreation area or parts of the recreation area in the FERC relicensing area to local entities. I'm not sure if I agree or disagree with that, but I think it's definitely something that DWR needs to address.

Thank you.

MS. PATTI KROEN: Thanks, Kathy.

Anyone else?

(No audible responses)

Okay. I would invite you to contact any of these folks. We will be here for another forty-five -- forty minutes. And we'll be out in the lobby. If you'd like to

talk one-on-one with anybody who's here representing DWR, Rick will be here. Tim Welch from the FERC (phonetic) is here. And there's a lot of information out on the tables. If you haven't had an opportunity, before we started this portion of the meeting, to take a look at those things, you might want to check out what's on the table.

There's a correction to be made on this, on the e-mail address. It's wrong. There's a "P" in front of the "2." So it should be orovillep2100@water.ca.gov. I trust the cards are correct out on the tables. So if you need that contact information, it's available on the business cards on any of the tables outside.

Would you like to wrap the meeting up at this time, Rick?

MR. RICK RAMIREZ: Thank you, Patti.

On behalf of the Department I would sincerely like to thank folks for the input we received tonight. Obviously, there's a lot of issues that our process needs to consider and a lot of decisions the Department needs to make. The type of input we get, frankly, does help us take a fresh look at things that community and others feel that we should be looking at. So, in that respect, we do welcome input.

Obviously, it's a complicated process. I think you saw evidence of that in my comments, in Tim Welch's comments, and from the comments of the folks that are involved in the process. I wish I could make it much easier, but the truth

is, it will continue, I think, to be a process that would require much attention and involvement from those folks that have issues that they would like to see resolved. And so I would just ask for the patience of those folks.

And we are making progress. It's almost been a year, I think, since we started this process. And we in fact have managed, as a group, to get together and put out a document that this process requires. So even as we look ahead of us and see the remaining challenges, I think, if you stop every now and then and look behind us, you will see evidence of a collaboration working. And I think that is something that hopefully we can remind ourselves of and take that with us as we attempt to climb the next challenge in the process.

So I would like to conclude. Thanks, Patti and Tim, for being part of the presentation.

And, as Patti mentioned, we are available for several more minutes if there are any questions that we might -- might hear after the process.

So let me just conclude this part of the meeting. Thank you for your participation. And you'll be hearing from the Department on the issues.

Thank you.

(Public Comment Period concluded at 8:30 p.m.)

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COURT REPORTER'S CERTIFICATE

This is to certify that I, TAGRA SHANOFF DENT, a Certified Shorthand Reporter of the State of California, was present at the time and place the foregoing proceedings were had and taken in the within matter; and that, as such shorthand reporter, I did take down in shorthand writing the aforementioned proceeding and afterwards caused my said shorthand writing to be transcribed into typewriting; and the foregoing pages constitute a full, true, correct and complete transcription of my said shorthand notes.

DATED: This 29th day of November 2001

Tagra Shanoff Dent

TAGRA SHANOFF DENT
CSR NO. 3332

CALIFORNIA DEPARTMENT OF WATER RESOURCES
OROVILLE FACILITIES RELICENSING (FERC PROJECT NO. 2100)
PUBLIC SCOPING MEETING OF OCTOBER 29, 2001

* Comments of Joint Water Districts
and
Western Canal Water District

OROVILLE FACILITIES RELICENSING (FERC PROJECT NO. 2100): PUBLIC SCOPING MEETING OF OCTOBER 29, 2001

*** Comments of Joint Water Districts and Western Canal Water District**

Ladies and Gentlemen:

I am Robert Fehlman, Manager of the Western Canal Water District appearing with Doak Cotter, Manager of the Joint Water Districts consisting of Richvale Irrigation District, Butte Water District, Biggs-West Gridley Water District and Sutter Extension Water District. The Joint Water Districts are located in Butte and Sutter Counties and Western Canal Water District is located in Western Butte County and Eastern Glenn County. We are appearing before you this evening specifically to request that FERC address our problem which is crop damage resulting from dramatic drops in the temperature of water delivered by DWR in its operations of the Oroville Dam and Reservoir from the Thermalito Afterbay. We ask that FERC address this problem by adopting a license provision requiring DWR to ensure deliveries of irrigation water from Thermalito Afterbay at temperatures suitable for rice propagation and production, specifically at least 65° during the four-week planting period, and at least 59° for maintenance and "tillering" water until the irrigation season is completed; i.e., on or about October 31 each year.

Our request is based upon DWR's obligations under its 1969 Agreement with the Joint Water Districts and its 1985 Agreement with Western Canal Water District as discussed in our letter to DWR Director Thomas Hannigan dated February 1, 2000, which I submit to you now as Exhibit "A-1 through A-24." Exhibit "A" specifically references Paragraph 6 of the 1969 Joint Water Districts – DWR Agreement which states in part as follows:

> "This Agreement does not relieve State or its officers, agents or employees from liability to or from damages to Districts or third parties arising out of failure of State at any time to comply with this Agreement or the diversion schedules or notices given by Joint Manager pursuant hereto or from injuries to crops or production of crops due to reduction in temperature of water available to Districts during any portion of any Irrigation Season or seasons *as a result of water released from Lake Oroville being colder than water that would have been available in the Feather River for diversion by Districts if Oroville Dam had not been constructed.* (italics added) Nothing in this Agreement shall be construed as an admission by State that a reduction in the temperature of water available to the Districts will in fact cause injury to crops or production of crops." **See DWR-Joint Board Member Water Districts Agreement of May 27, 1969 at Paragraph 6 on Pages 16 and 17.**

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***Comments of Joint Water Districts and Western Canal Water District**

It is critical that irrigation water delivered pursuant to the 1969 Joint Water District/DWR Agreement and the 1985 Western Canal – P.G. & E. – DWR Water Diversion Agreement being released from the Afterbay into the river at a temperature which does not fall below 64°F during the four-week germination stage and/or planting stage for rice and does not fall below 59°F during the maintenance "tillering" stage for rice (releases under the control of DWR not inclusive of weather). Additionally, at the initial germination or planting stage, it is estimated by the Rice Experiment Station that a combination of ground and water temperature which:

(1) falls below 50°F will kill the plant;
(2) falls below 50°F and 55°F will produce very low germination activity causing the plant to damage or die; and
(3) falls within 55°F to 60°F will cause low yield and seedling production.

During the initial germination stage, the temperature of the top 4-inches of soil inundated with irrigation water is critical. It is not recommended that rice be planted when the combined temperature of water and soil falls below 65°F.

Additionally, please review the brochure produced by Department of Water Resources for the State of California at the time of building Oroville Dam and Reservoir. The brochure fairly supports the reasoning we submitted to you in our letter of February 1, 2000, which is Exhibit "A." With regard to agricultural production of rice by a number of landowners within our Districts, the brochure report states in part:

> "The University of California has demonstrated that rice plants thrive best when the temperature of irrigating waters ranges from 59° to 77°F. Even within this critical range, temperature fluctuation drastically affects the harvest.
>
> With a proper outlet structure at Oroville Dam, the temperature of releases can be controlled so as to serve the agricultural interests of the area." See Page 11 and Page 12 of "Temperature Control of Water From Oroville Reservoir" produced by the Department of Water Resources in the early 60's.

The foregoing brochure was referenced in our letter to Director Hannigan of March 21, 2000, which is submitted as Exhibit "B-1 through B-17." In our letter of February 1, 2000, which is Exhibit "A" we state our concerns with the obligatory contractual requirements set forth in our contracts with DWR which are mentioned in

OROVILLE FACILITIES RELICENSING (FERC PROJECT NO. 2100):
PUBLIC SCOPING MEETING OF OCTOBER 29, 2001
***Comments of Joint Water Districts and Western Canal Water District**

DWR Representative Jim Spence's letter of September 14, 1999 to Gary Sterns of the National Marine Fisheries Service where Mr. Spence writes:

> "As described in the attached comments from the Oroville Field Division to me, assuring substantially colder water conditions in the low-flow channel to a compliance point at "Robinson Riffle" (River Mile 61.6) requires water releases to be colder, or greater, or both. Release of water cold enough to meet the objective will certainly conflict with the 1983Agreement with California Department of Fish and Game and for "Operation of the Oroville Diversion of the State Water Project for Management of Fish and Wildlife." *Such releases of cold water will also conflict with the 1969 water rights settlements with Richvale Irrigation District, Biggs-West Gridley Water District, Butte Water District, and Sutter Extension Water District. Water temperature was an important factor in the design and construction of the Thermalito Afterbay facilities.* **Operation outside the range of existing written agreements does not seem to me to be a "reasonable measure" involving only minor changes to the project.** *To some extent, large flow increases in the low-flow channel could substitute for colder initial water temperatures, but would then necessitate varying the flow in contradiction to the second basis objective – stability."* See Exhibit "A" at Page 4.

Finally, we ask you to review the eight (8) examples of reduced rice production yields developed during the 1999 irrigation season due to colder water temperatures which examples are set forth @ Exhibit "A-5."

We thank you for opportunity to present our concerns to FERC and again, ask that these concerns be addressed by FERC during the relicensing of the DWR Hyatt Power Plant Facility in Oroville.

ROBERT FEHLMAN, Manager
WESTERN CANAL WATER DISTRICT

DOAK COTTER, Manager
JOINT WATER DISTRICTS BOARD

Exhibit A

FEATHER RIVER DIVERTERS

JOINT WATER DISTRICTS
735 Virginia Street
Gridley, California 95948
Telephone: (530) 846-3307

WESTERN CANAL WATER DISTRICT
P.O. Box 190
Richvale, California 95974
Telephone: (530) 342-5083

Representing:
Richvale Irrigation District
Biggs-West Gridley Water District
Butte Water District
Sutter Extension Water District

February 1, 2000

Director Thomas M. Hannigan
State of California
Department of Water Resources
1416 Ninth Street
P.O. Box 942836
Sacramento, CA 94236-0001

Re: DWR Obligations to Deliver Water from Thermalito Afterbay at Temperatures Suitable for Agriculture

Dear Director Hannigan:

As you know, our office represents the Joint Water Districts and Western Canal Water District on the Feather River System. The Joint Water Districts consist of Richvale Irrigation District, Butte Water District, Biggs-West Gridley Water District and Sutter Extension Water District, located in Butte and Sutter Counties. Western Canal Water District is located in western Butte County and eastern Glenn County.

The districts are concerned about crop damage resulting from dramatic drops in the temperature of water delivered to them by DWR from the Thermalito Afterbay. Prior to the commencement of the 2000 irrigation season (which could occur as early as April), they request assurance that DWR will work to ensure deliveries of irrigation water from Thermalito Afterbay at temperatures suitable for rice propagation and production, specifically at least 65° during the four-week planting period, and at least 59° for maintenance and "tillering" water until the irrigation season is completed, *i.e.*, on or about October 31. That request is based upon DWR's obligations under its 1969 agreement with the Joint Water Districts, and its 1985 agreement with Western Canal Water District, as discussed in more detail below. DWR's May 27, 1969 Agreement with the Joint Water Districts was entered into *inter alia* to settle the Joint District's

protests to the State of California's Junior Water Rights status allowing the building of the State Water Project's Oroville Dam and Reservoir. As a part of the 1969 Joint District Agreement, DWR and the Joint Districts negotiated the temperatures reasonably related to achieving agricultural production within the Joint Water District service area. Paragraph 6 of the 1969 Agreement states in part as follows:

> "This Agreement does not relieve state or its officers, agents or employees from liability to or from damages to districts or third parties arising out of failure of State at any time to comply with this Agreement or the diversion schedules or notices given by Joint Manager pursuant hereto or from injuries to crops or production of crops due to reduction of temperature of water available to Districts during any portion of any irrigation season or seasons *as a result of water released from Lake Oroville being colder then water that would have been available in the Feather River for diversion by districts if Oroville Dam had not been constructed.* (italics added) Nothing in this Agreement shall be construed as an admission by State that a reduction in the temperature of water available to the Districts will, in fact, cause injury to crops or production of crops."
> **See DWR-Joint Board Member Water Districts Agreement of May 27, 1969 at Paragraph 6 on Pages 16 and 17.**

The 1985 WCWD - PG&E - DWR Water Diversion Agreement was a successor to the May 27, 1969 DWR - Pacific Water Delivery Agreement. Although the 1985 Agreement does not contain language as specific as paragraph 6 of the Joint District - DWR 1969 Agreement, paragraph 4(c) of the WCWD - PG&E - DWR 1985 Agreement is specific that DWR is not released from liability for colder water temperatures distributed to WCWD; and the crops grown in both service areas are similar. It is critical that irrigation water delivered pursuant to the above contract be released from the Afterbay into the river at a temperature which does not fall below 64°F during the four-week germination stage and/or planting stage for rice and does not fall below 59°F during the maintenance or "tillering" stage for rice (releases under the control of DWR not inclusive of weather). Additionally, at the initial germination or planting stage, it is estimated by the Rice Experiment Station that a combination of ground and water temperature which:

(1) falls below 50°F will kill the plant;
(2) falls below 50°F and 55°F will produce very low germination activity causing the plant to damage or die; and
(3) falls within 55°F to 60°F will cause low yield and seedling production.

During the initial germination stage, the temperature of the top 4-inches of soil inundated with irrigation water is critical. It is not recommended that rice be planted when the combined temperature of water and soil falls below 65°F.

During the "tillering" or rice maintenance stage; i.e., single rice plants start to multiply producing additional stands; it is critical that combined water and soil temperature not fall below 59°F.

COLDER WATER RELEASES

Our concerns are generated by the enclosed July 14, 1999 comments from NOAA/NMFS together with the attached fax of the same date from Michelle Simpson to Dave Robinson of the USBR and Zachary Hymanson of DWR. Particularly on page 2 of the fax from Michelle Simpson she makes the following 4 points with regard to the Feather River:

- Manage reservoir releases from June 1 through September 30 with the goal of achieving a daily average water temperature below 60°F in the reach between the Fish Barrier Dam and Robinson Riffle (RM 61.6). During short periods (2-15 days) of high ambient air temperatures, reservoir releases may be managed to maintain daily average water temperatures between 60°F and 65°F at RM 61.6. If water temperatures rise to a daily average of 68°F or greater for two consecutive days, Reclamation/DWR shall immediately notify NMFS to evaluate potential operational modifications necessary to provide cooler temperatures.

- To monitor temperature conditions, the DWR must utilize an automatic temperature recording device in the Feather River at RM 61.6 for steelhead. The device must be capable of recording water temperature at 1 to 2 hour intervals on a 24-hour basis. Water temperature data must be transmitted to NMFS on a weekly basis via facsimile (Gary Stern; Fax 707-578-3435).

- Stability criteria for the volume of flow released to the Low Flow Channel: flows are not decreased more than 15% per day and not more than 2% per hour. When flood releases can be anticipated, efforts shall be made to minimize rapid increases in flow to the low flow channel. When possible flows are not increased more than 100% per day and not more than 10% per hour.

- Continue and expand monitoring within the Feather River to:

  (1) establish the presence, residence time, immigration, and emigration periods of adult and juvenile steelhead and chinook salmon; and

  (2) measure temperature and flow conditions year-round. The monitoring program proposal submitted for review and approval by September 1, 1999.

Not only are the above comments advocating a violation of the obligatory language of the '69 Agreement with the Joint Water Districts and the spirit of the 1985 Agreement with WCWD; they are betraying an intention of third party public agencies asking DWR to breach the Agreement and to harm water users dependent on agricultural water supplies delivered out of Lake Oroville for the production of rice and other similarly grown crops.

You were aware of this same problem, we believe, in your letter of September 14, 1999 written by Jim Spence, the Chief of the Project Operations Planning Branch for the State Water Project Control Office and addressed to Gary Stern of the National Marine Fisheries Service in Santa Rosa. The same letter written by Spence was directed to Michelle Simpson of NMFS, and Jim White of the State of California Department of Fish and Game. In Mr. Spence's September 14, 1999 letter to Gary Stern of NMFS, he writes in part that:

> "As described in the attached comments from the Oroville Field Division to me, assuring substantially colder water conditions in the low-flow channel to a compliance point at "Robinson Riffle" (River Mile 61.6) requires water releases to be colder, or greater, or both. Release of water cold enough to meet the objective will certainly conflict with the 1983 agreement with California Department of Fish and Game for "Operation of the Oroville Division of the State Water Project for Management of Fish and Wildlife." *Such releases of cold water will also conflict with the 1969 water rights settlements with Richvale Irrigation District, Biggs-West Gridley Water District, Butte Water District, and Sutter Extension Water District. Water temperature was an important factor in the design and construction of the Thermalito Afterbay facilities.* **Operation outside the range of existing written agreements does not seem to me to be a "reasonable measure" involving only minor changes to the project.**
>
> *To some extent, large flow increases in the low-flow channel could substitute for colder initial water temperatures, but would then necessitate varying the flow in contradiction to the second basic objective - stability."* See letter of September 14, 1999 from Jim Spence, Chief of Project Operations Planning Branch State Water Project Control Office to Gary Stern of National Marine Fisheries Service.

Colder water temperatures experienced by Joint Water Districts and WCWD service area landowners during the 1999 irrigation season caused reduced rice production yields on a per acre basis, including the following examples:

Example #1

Memorandum #1 reviews RID Landowner Gerald "Butch" Mattson taking water from the Afterbay through the Richvale Canal in: 1) a 300 acre field; 2) a 270 acre field; and 3) an 80 acre field together with colored photographs showing dead rice due to cold water temperatures.

Example #2

Memorandum #2 reviews BWGWD Landowner John "Chuck" Adams suffering colder water temperatures at the intake channel off of the Biggs-West Gridley Canal together with a map which shows dead rice in a 146 acre field consisting of 25 acres in #1 and #2.

Example #3

Memorandum #3 reviews cold water temperatures in the 1999 irrigation season incurred by WCWD Landowner LaMalfa Farms causing reduced yield and rice crop damage.

Example #4

Memorandum #4 reviews RID and BWGWD Landowner James Sligar in suffering reduced rice crop yield due to colder water temperatures.

Example #5

Memorandum #5 reviews RID Landowner Lyle Job suffering cold water temperature damage to approximately 150 acres in 1999 causing reduced yields and crop damage.

Example #6

Memorandum #6 is a map which reviews WCWD and RID Landowner Gary Lindberg with cold water temperatures suffering reduced crop yields in both the east and west side of a 314 acre field divided into three sections.

Example #7

Memorandum #7 is a 1999 graph showing the difference between Thermalito Feather River Hatchery water deliveries and Afterbay Outlet water temperatures from February 28, 1999 through September 26, 1999. The temperature difference on 6/28/99 is 16 degrees; *i.e.*, 54 degrees @ the Hatchery and 70 degrees @ the Afterbay Outlet.

Example #8

Memorandum #8 is a twenty (20) year graph supplied by the DWR Oroville Field Division which identifies the trend toward colder water released from Lake Oroville (commencing January 1980 through January 2000). A more dramatic drop in water temperatures started in January 1993.

We urge you to deliver a written communication to the authors of these memos at NOAA/NMFS and specifically to Michelle Simpson, Dave Robinson and Zachary Hymanson of the respective USBR and DWR Offices requesting that they assist DWR in ensuring that water temperatures delivered to both the Joint Water District Members and WCWD service areas are delivered and distributed in reasonable compliance with the water temperature level set forth in this letter pursuant to the obligations expressed in the Joint Water District 1969 Agreement and the Western Canal Water District 1985 Agreement with DWR. May we please have your response within the next twenty (20) business days which will adequately precede the commencement of the year 2000 irrigation season. Thank you and we trust that we may have your written consent and position on this subject.

Very truly yours,

FEATHER RIVER DIVERTERS

JOINT WATER DISTRICTS

Richvale Irrigation District

By: _____
Gene Harris - President

Sutter Extension Water District

By: _____
Ronald Harrington - Chairman

Biggs-West Gridley Water District

By: _____
Ralph R. Cassady - President

WESTERN CANAL WATER DIST.

By: _____ (MANAGER)
FOR; Lance Tennis - President

Butte Water District

By: _____
Gregg Correa - Vice President

Enclosures
cc: National Oceanic and Atmospheric Administration
National Marine Fisheries Service
California Department of Fish and Game
United States Fish and Wildlife Service

MEMORANDUM - EXAMPLE #1

TO: FILE

FROM: WHB

DATE: January 10, 2000

RE: Butch Mattson - Proposed letter to DWR - Cold Water Temperatures

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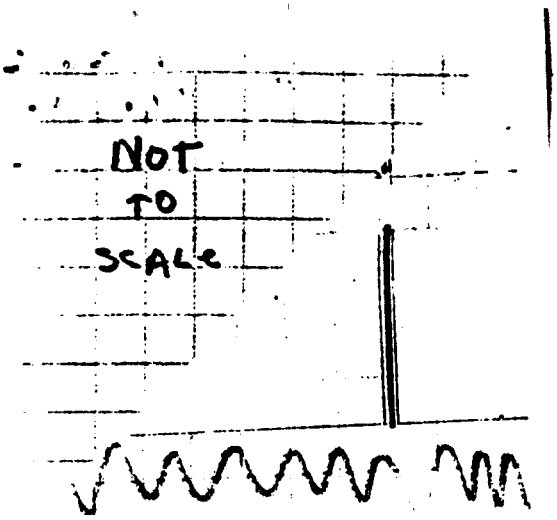
I conferred with Gerald "Butch" Mattson this morning and reviewed his "not to scale" draft diagram of taking water from the Afterbay through the Richvale Canal and then southerly to first, his intake at a 300-acre field and then to his intake at a 270-acre field. His third field takes water out of the Western Supply Ditch on the south side of Richvale Hwy. to an intake channel to his 80-acre field where he has a 2-3 acre leveed warming ditch.

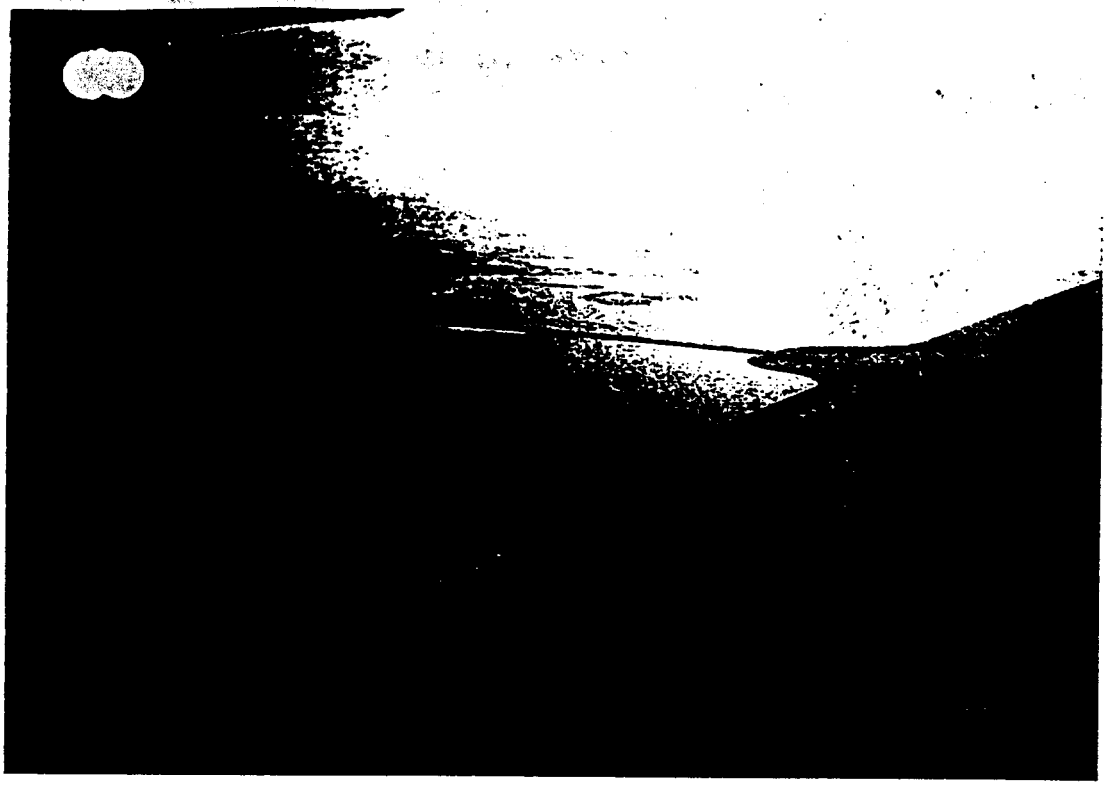
The 80-acre field takes about 2-3 hours to run water through the warming pond which is at the southeast corner of the field and takes water right out of the intake channel from the Western Supply Ditch at approximately 56° - 58°. The warming pond probably takes 5° - 8° off the cold water temperature and grows rice but does not produce any rice for the entire 2 - 3 acres. Butch says he started the pond 6 - 7 years ago in an attempt to control colder water temperatures coming out the Afterbay. His yield average in 1999 on the 80-acre field was 106 sacks green and 94 dry with no rice harvested on the 2 -3 acre warming pond area.

Butch's second field is the 300-acre field which has a 5 - 6 acre warming pond built in approximately 1995 to control cold water. Rice was planted but now growth in the entire 5 - 6 acres and water coming from the intake channel is estimated at 58° and warmed to approximately 66° in the 5 - 6 acres before applied on the balance of the 300-acre growing area. In 1999 rice yields were 86.5-acres dry with rice planted but killed on the entirety of the 5 - 6 acres.

The third 270-acre field has no leveed warming pond because the landlord (Wehas Farms) said the levee area produces weeds which encroaches on rice production in other areas so the levee was taken down. Still, 5 - 6 acres is planted to rice but grows no rice and the temperature at the intake channel is 58° with another 66° - 67° where it comes out of the 5 - 6 acre into the balance of the field.

I've marked 7 photos taken on December 30, 1999 by Mattson which chronologically show the introduction of water from the Afterbay through the Richvale Canal and into each of the three fields which shows the area of ground tilled by cold water temperatures.


NOT
TO
SCALE

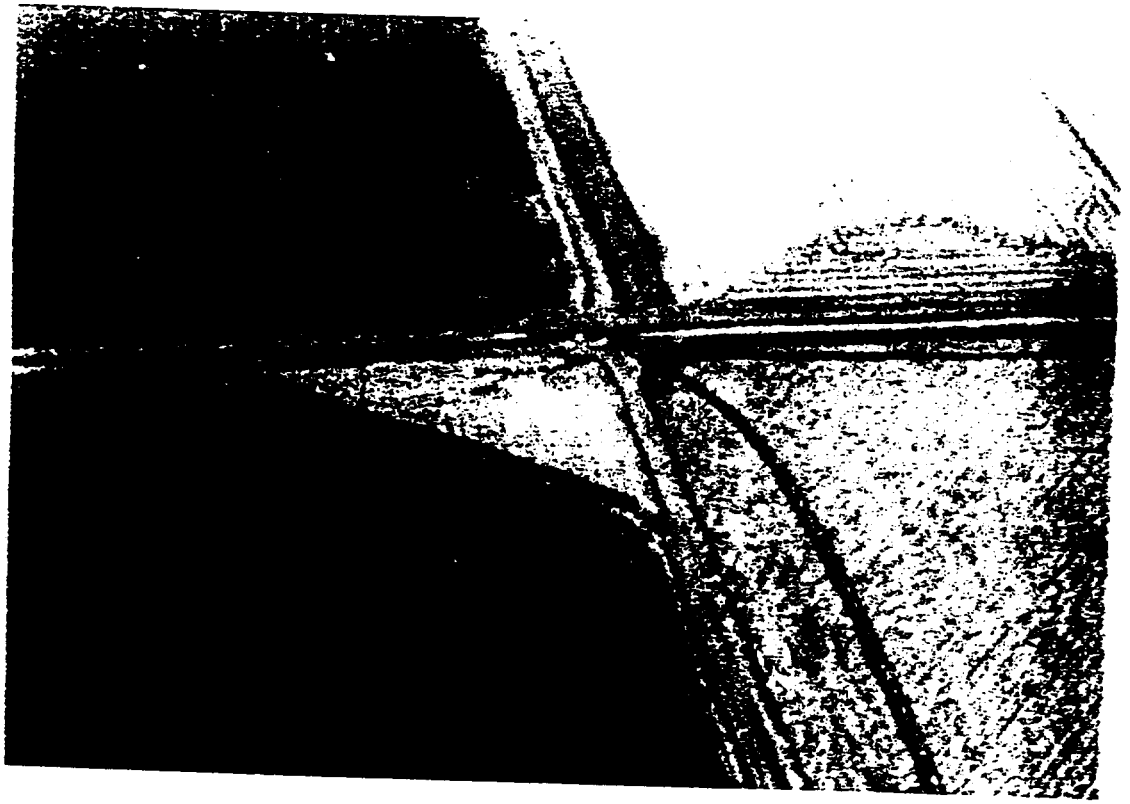


#1 - 12/30/99
Western and
Richvale Canals

#2 - 12/30/99
80-acre field shows levee to control
and warm water: Gerald Mattson

#3 - 12/30/99
Shows 270-acre field with
5-6 acres of dead rice

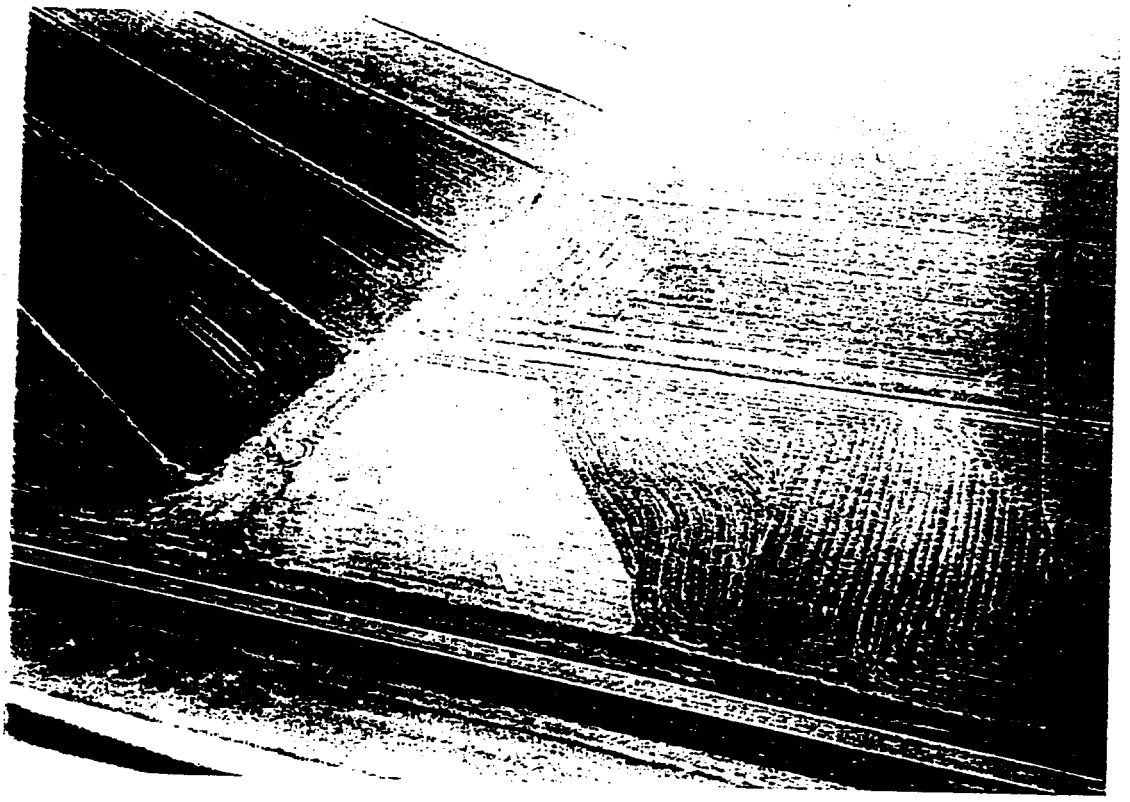
#4 - 12/30/99
Shows cold water
unharvested rice



#6 - 12/30/99
Shows cold water
unharvested rice

#5 - 12/30/99
Shows cold water
unharvested rice

#7 - 12/30/99
Shows cold water
unharvested rice



MEMORANDUM - EXAMPLE #2

TO: FILE

FROM: WHB

DATE: January 10, 2000

RE: Chuck Adams - Proposed letter to DWR - Cold Water Temperatures

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I reviewed the map and areas 1 and 2 provided me by Chuck Adams through the mail today. They show a 146-acre field looking just westerly of Biggs-West Gridley Road but doesn't provide documentation on the map as to acres in the areas impacted. I called Chuck and he advised as follows:

1. Field #1 is approximately 15-acres and Field #2 is approximately 10-acres. All a part of the146-acre field.

2. The intake channel on the Biggs-West Gridley Canal is approximately one-quarter mile off of Farris Road. The temperature of the water at the intake channel was always less than 60° at all times of release into the field during the irrigation season.

3. He never constructed ponds.

4. The cold water problem commenced gradually over the last 10-years.

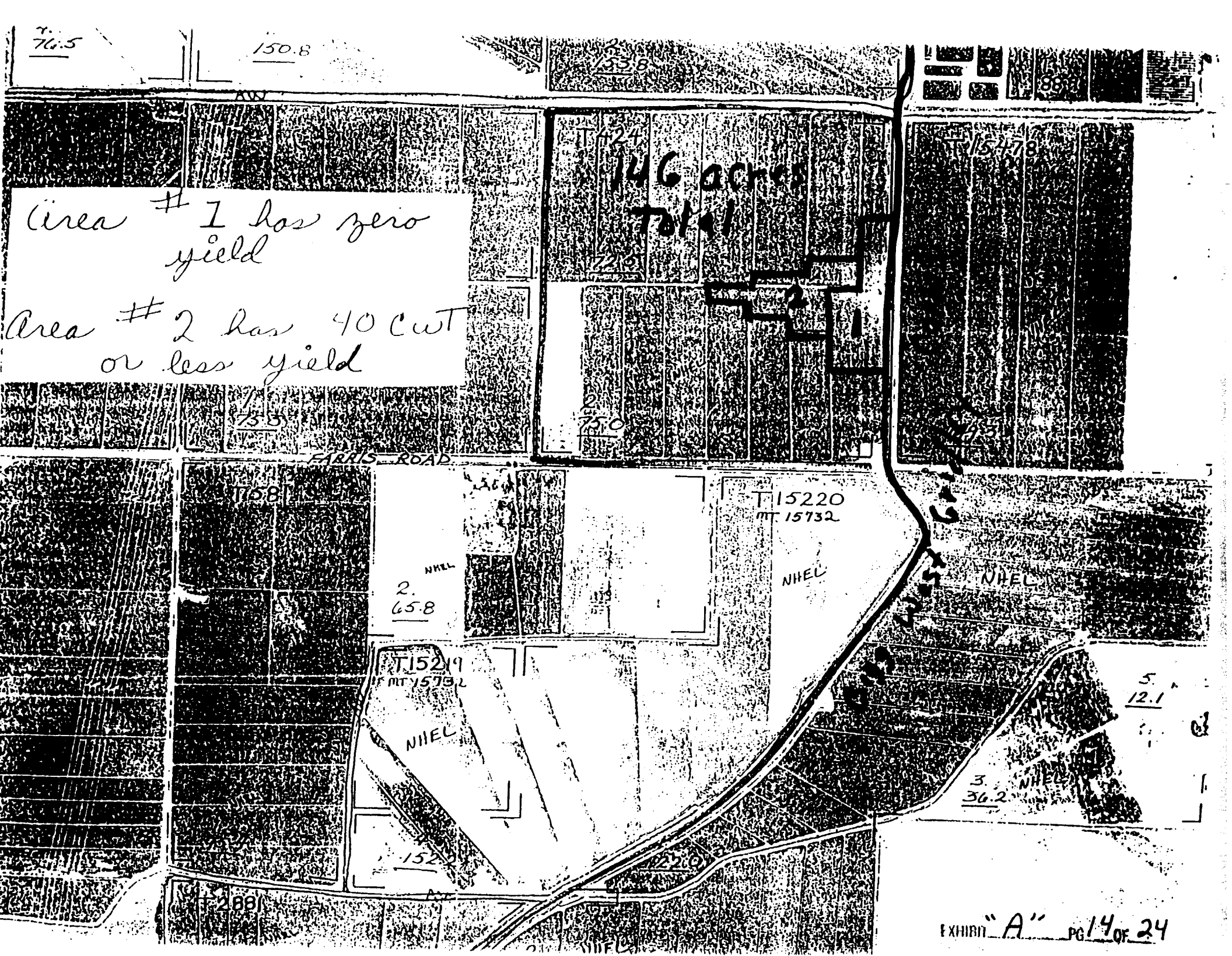

EXHIBIT "A" PG 14 OF 24

MEMORANDUM - EXAMPLE #3

TO: FILE

FROM: WHB

DATE: January 20, 2000

RE: Statement of Milton LaMalfa - Proposed letter to DWR - Cold Water Temperatures

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1999 RICE CROP YEAR
at LaMalfa Farms

Attached is a map showing LaMalfa Farms Rice Fields located north of Richvale Hwy. West and on the west side of Hwy. 99. The Afterbay is directly across from us on the east side of Hwy 99. The outlet from the Afterbay for Western Canal and Richvale Canal is also across from our farm. Our field deliveries are the first ones on the canals coming from the Afterbay.

When the Afterbay was built we were told it was a warming pond and in the DWR negotiations and contracts. We would be delivered water at least the same temperature as we had been receiving from the Feather River in the past and could even be warmer.

The first year water was delivered from the Afterbay we noticed several acres of rice blanked out at each inlet off the canal due to cold water. Other farmers down the canal all had the same problems. Complaints were made but did not help much so in the following years we established our own warming ponds sizing them to match the areas that the rice blanked out.

These areas are indicated by the light green color on the attached map. The size of each area is determined by the volume of water needed to irrigate the fields. We stopped putting seed, fertilizer and chemicals in these areas because of zero yield to pay for them. But we still pay land payments, insurance, county taxes and water on these areas with no return. Within these warming ponds we put dykes in to make the water circulate or zig zag - giving it more time to be warmed by the sun during the day (not much help at night). The attached map is not to scale but I will give you the measured sizes indicated by the green color.

Field #4 and #40 - 3 acres. Field #1 - 5.7 acres. Field #142 - 3 acres. Field #66 - 2.5 acres. Field # 50 - 2.5 acres. Field #10 - 3 acres. Field #30 - 1.5 acres. Field #48 - 2.5 acres.

This year the rice blanked out past our warming ponds indicated by the pink areas on the map. The blanked out areas were larger than the warming areas. We found out that the water temperature was 5° colder than in the past. Last year we noticed some blanking outside the warming ponds but not as severe. Here are the blanked acreage (not pink area) by field. Field #4

and Field #40 - 6 acres. Field #1 - 7 acres. Field #142 - 8 acres. Field #66 - 6 acres. Field #50 - 5 acres. Field #10 - 8 acres. Field #30 - 4 acres. Field #48 - 9 acres.

Our production costs for these acres are $300 to $350 per acre depending on weed control problems (weeds are harder to control in colder water). These costs bring us to harvest. Now we have no harvest - having drying and storage costs in those spots but we still have to come back and chop the straw and incorporate it into the soil and flood to decompose the straw since burning straw is almost gone. This decomposition cost is $45 per acre.

53 acres loss x $350 per acre = $18,550.00
53 acres straw decomposition = 2,385.00

This is 53 more acres not paying taxes, insurance and mortgage payments. The insurance costs for owning this farm and farming is $22.63 per acre. Our Butte County Taxes on this farm cost is $30.90 per acre.

There are more farms down the canal that can show the same information as I have here.

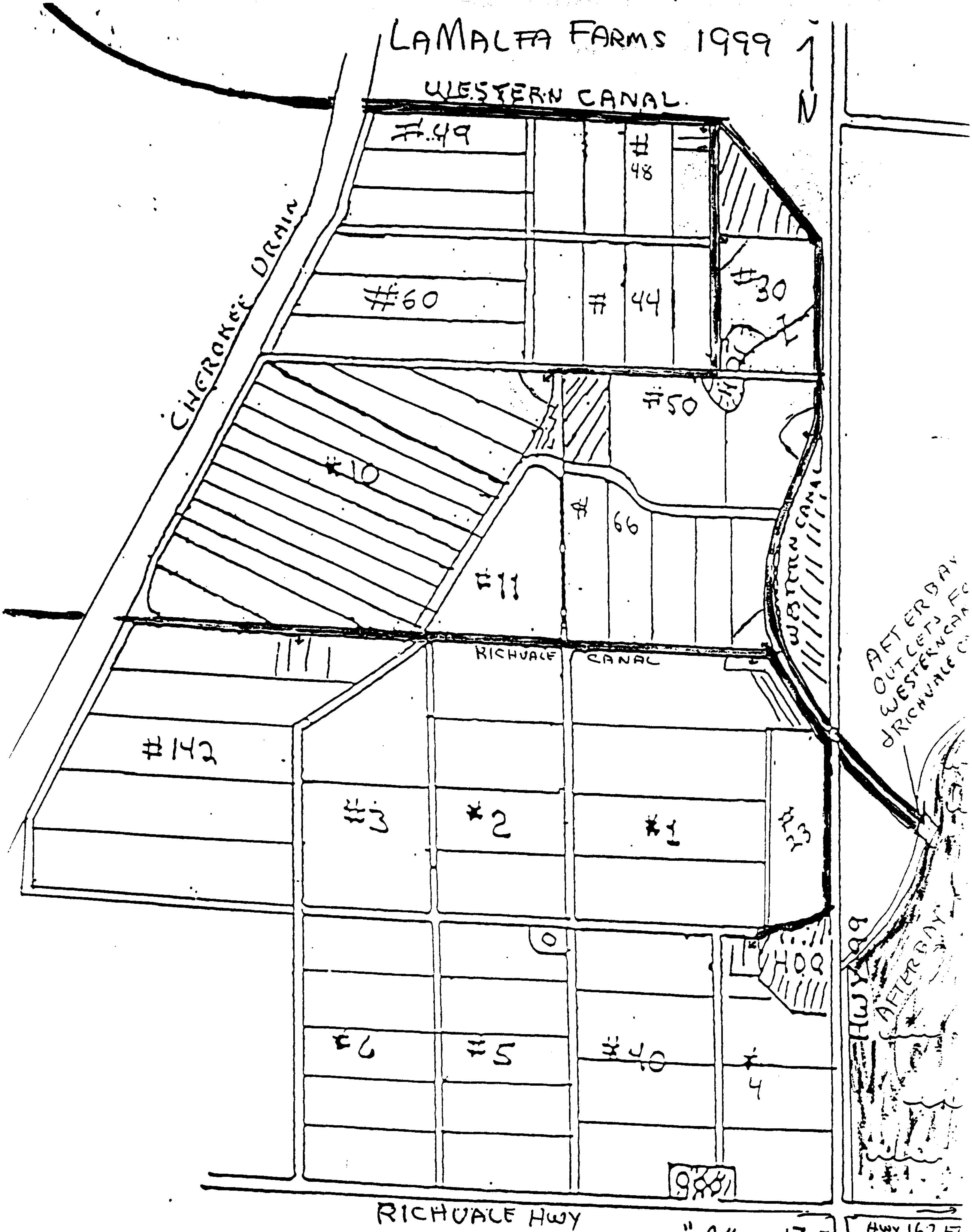
LaMalfa Farms 1999
N
Western Canal
Cherokee Drain
#49
#48
#60
#44
#30
#50
#10
#66
#11
Richvale Canal
Western Canal
#142
#3
#2
#1
#23
After Bay Outlets for Western Canal and Richvale C
Hwy 99
After Bay
#6
#5
#40
#4
Richvale Hwy
Hwy 162

EXHIBIT "A" -17-

MEMORANDUM - **EXAMPLE #4**

TO: FILE

FROM: WHB

DATE: January 21, 2000

RE: Statement of James J. Sligar - Proposed letter to DWR - Cold Water Temperatures

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I have been farming rice in the Biggs-West Gridley and Richvale Irrigation Districts portion of Butte County since 1973.

Over the course of these years I have always experienced some minor problems with "cold water intake checks," associated with the temperature of the water being delivered by the aforementioned water districts, these problems were usually confined to the top 2% of the field. But starting a few years back the temperature of the water delivered by the districts has dropped considerably thereby drastically increasing the problems associated with cold water intakes; i.e., poor seedling germination, poor seeding vigor, reduced tillering resulting in poor stand establishment and increased blanking associated with colder day and nighttime relative temperatures in the effected areas.

Now, the effected cold water areas instead of being confined to 2% of the field have grown to approximately 15-18% of the field in fields located in the top end of the water districts.

As an example my "overall" average yield for 1999 was 87.9 cwt/acre. But yields in fields planted at the top end of the district which experience my worst cold water effects were 80.1 cwt/ac. for field #1 Exhibit "A" and 79.5 cwt/ac. for field #2 Exhibit "A." These yields are 8 cwt/ac. below my average yields and 15-18 cwt below fields which experience no cold water intake effects.

Since both fields are 150-acres in size, this represents a minimum 2,400 cwt less rice to sell or approximately $24,000 less income.

I think it is imperative that the State live by its previous contract commitments and deliver rice growers water at temperatures previously agreed to.

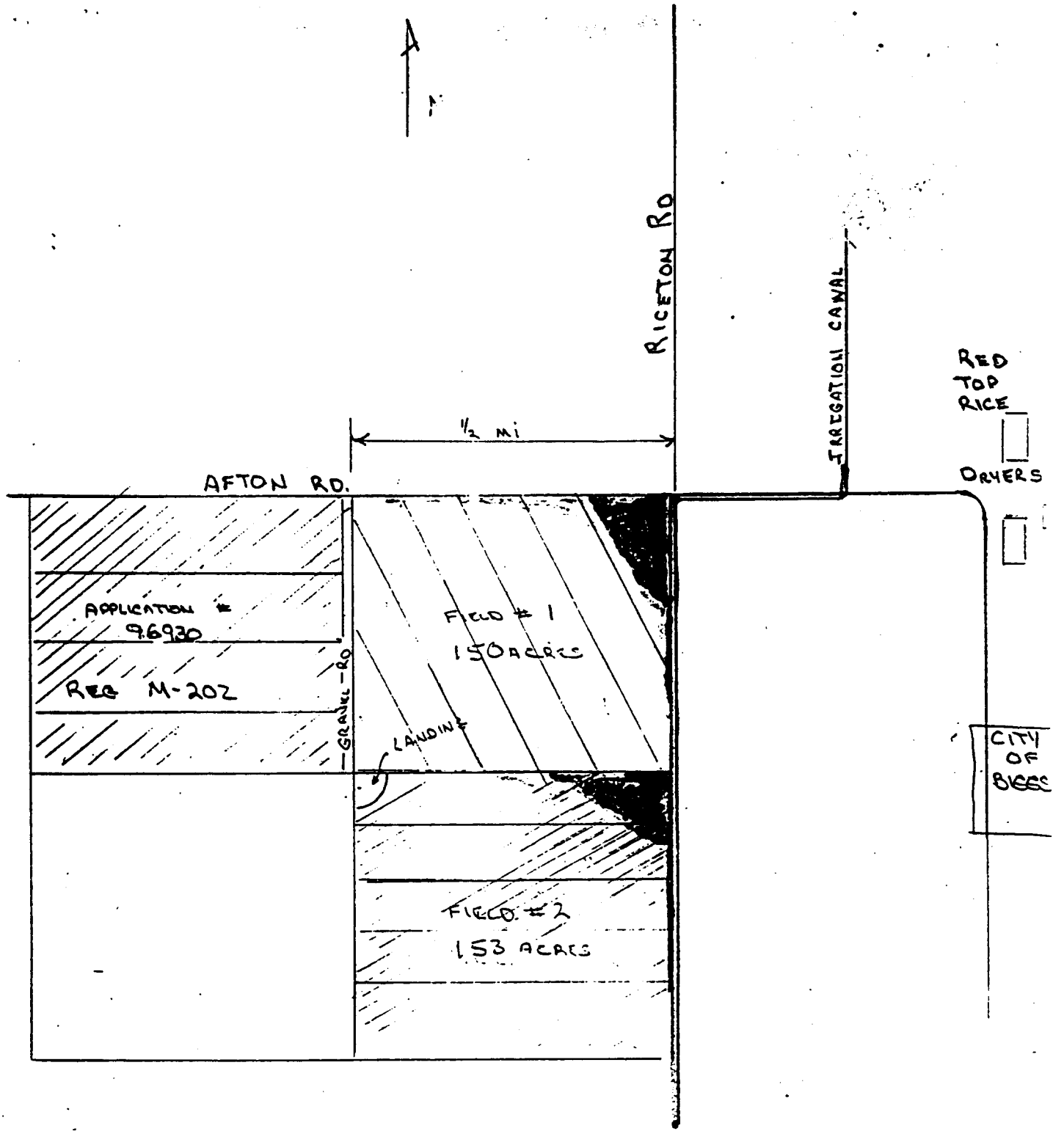


EXHIBIT "A" PG 19 OF 24

EXAMPLE #5

COLD WATER DAMAGE

1999 Rice Crop on L & L Farms
prepared by Lyle Job

I farm three separate parcels in the Richvale Irrigation District which receive irrigation water under different applications. I will explain each parcel and how it is affected by cold water delivery.

Parcel 226: Contains 22.6 acres of farmable rice acres which receives its water from a district lateral and a required bottom gate (producing colder water compared to a top of ditch service). Yield on this parcel for 1999 was 34.68 cwt. per acre of M401 rice. This parcel is farmed, planted, and harvested under all the same time frame as parcel 406 which borders parcel 226 on the east side.

Parcel 406: Contains 40.6 acres of farmable rice acres which receives its water from a private lateral and is a shallow ditch approximately 1/2 mile in length providing a surface service and an area for warming. Yield on this parcel for 1999 was 73.99 cwt. per acre of M401 rice. As stated above this parcel is farmed under the same time frame as parcel 226 yet producing 39.31 cwt. per acre more in yield.

Parcel 82: Contains 82 acres of farmable rice acres which receives its water from a district lateral five miles west of parcels 226 and 406. Therefore allowing warming to occur in the ditch before reaching the parcel's water delivery point. Yield for 1999 was 85.76 cwt. per acre of M204 rice. This parcel was a different variety but Rice Research Station data shows comparable yields in adjoining test plots.

Attached is map showing the location of parcels 226 and 406 in relationship to the main canal and each other. As stated above there were no differences in farming practices, fertilizer application, irrigation levels, planting dates, chemical applications, draining dates, harvest conditions and dates, and drying/storage practices.

The intake area(approx. 2 acres) of parcel 226 was totally blanked and was unharvestable. The remaining acres had approximately 50% blanking and harvest moistures where higher due to immature kernels. Also attached are paddy rice confirmations showing those moistures and yield data.

I have personally communicated with 10 other growers that are willing to provide data of the same degree as I have submitted so in my opinion this not an isolated problems. I did not include financial data as we market our rice over the next year and final returns will not be available until January of 2001. Estimated financial losses could be provided if litigation starts before that time.

Sincerely,

Lyle Job

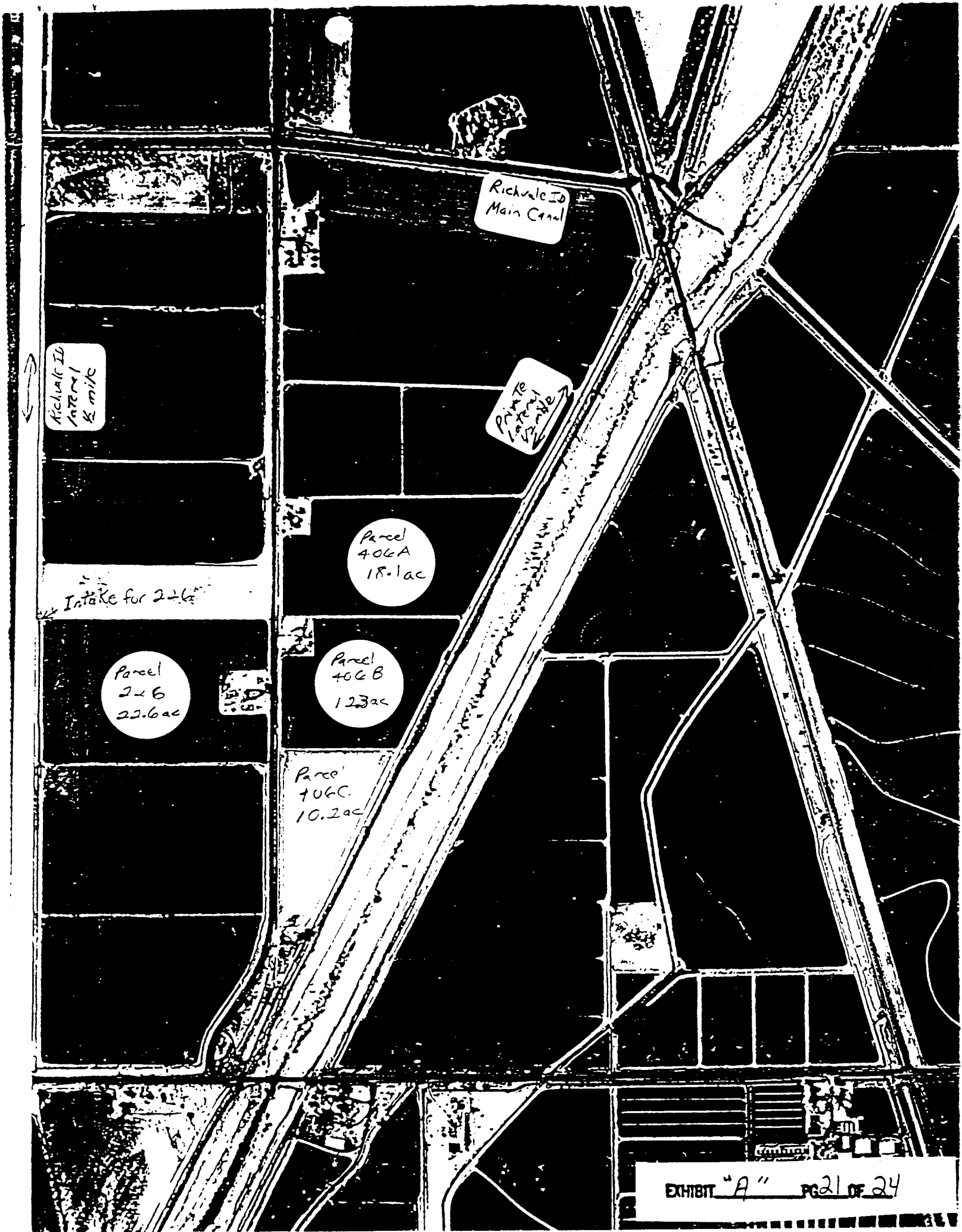


EXHIBIT "A" PG 21 OF 24

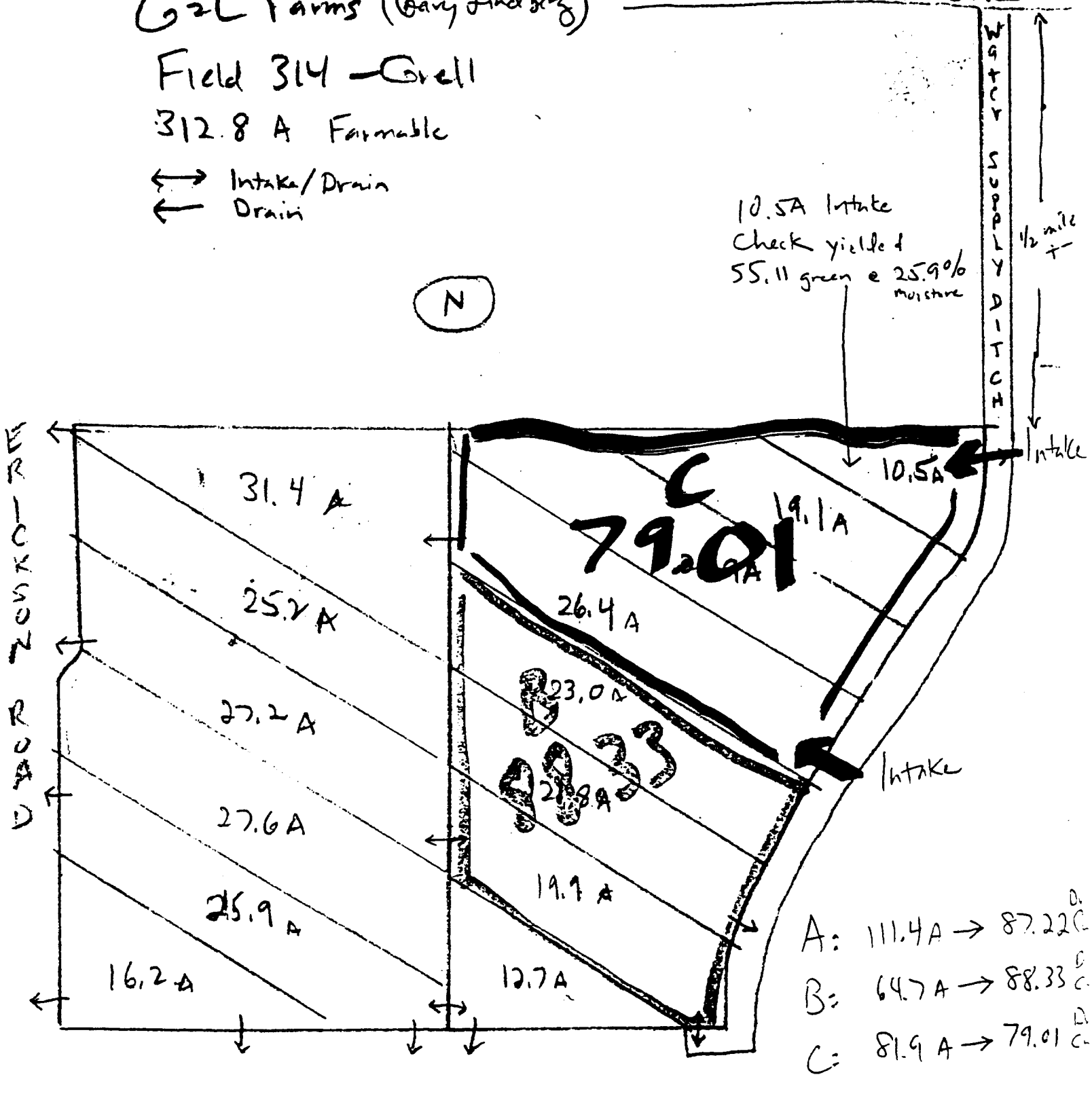
EXAMPLE #6

G2L Farms (Gary Lindberg)

Field 314 — Grell

312.8 A Farmable

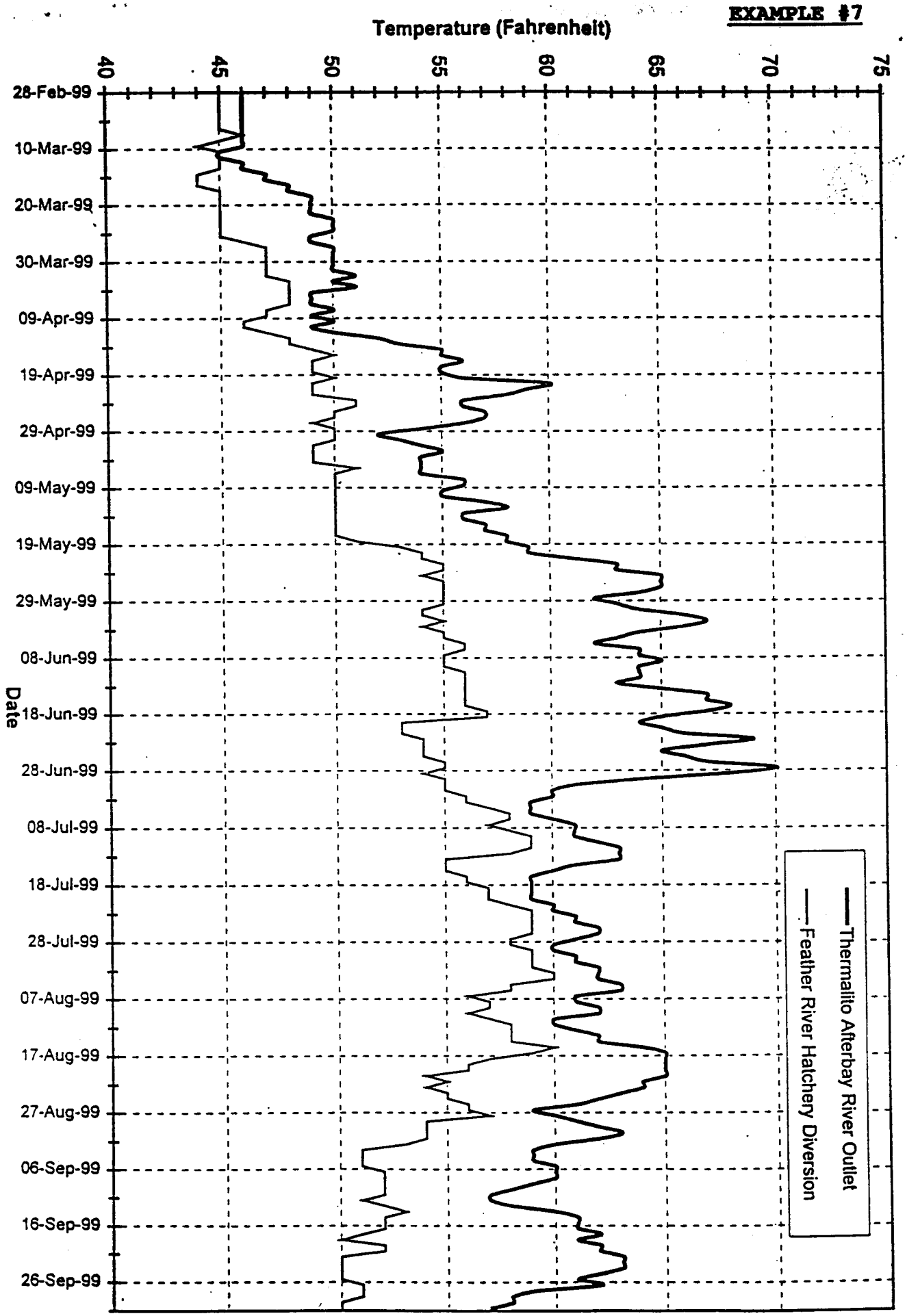
⟷ Intake/Drain
← Drain



153.5 A (West Side)

159.3 A (East Side)

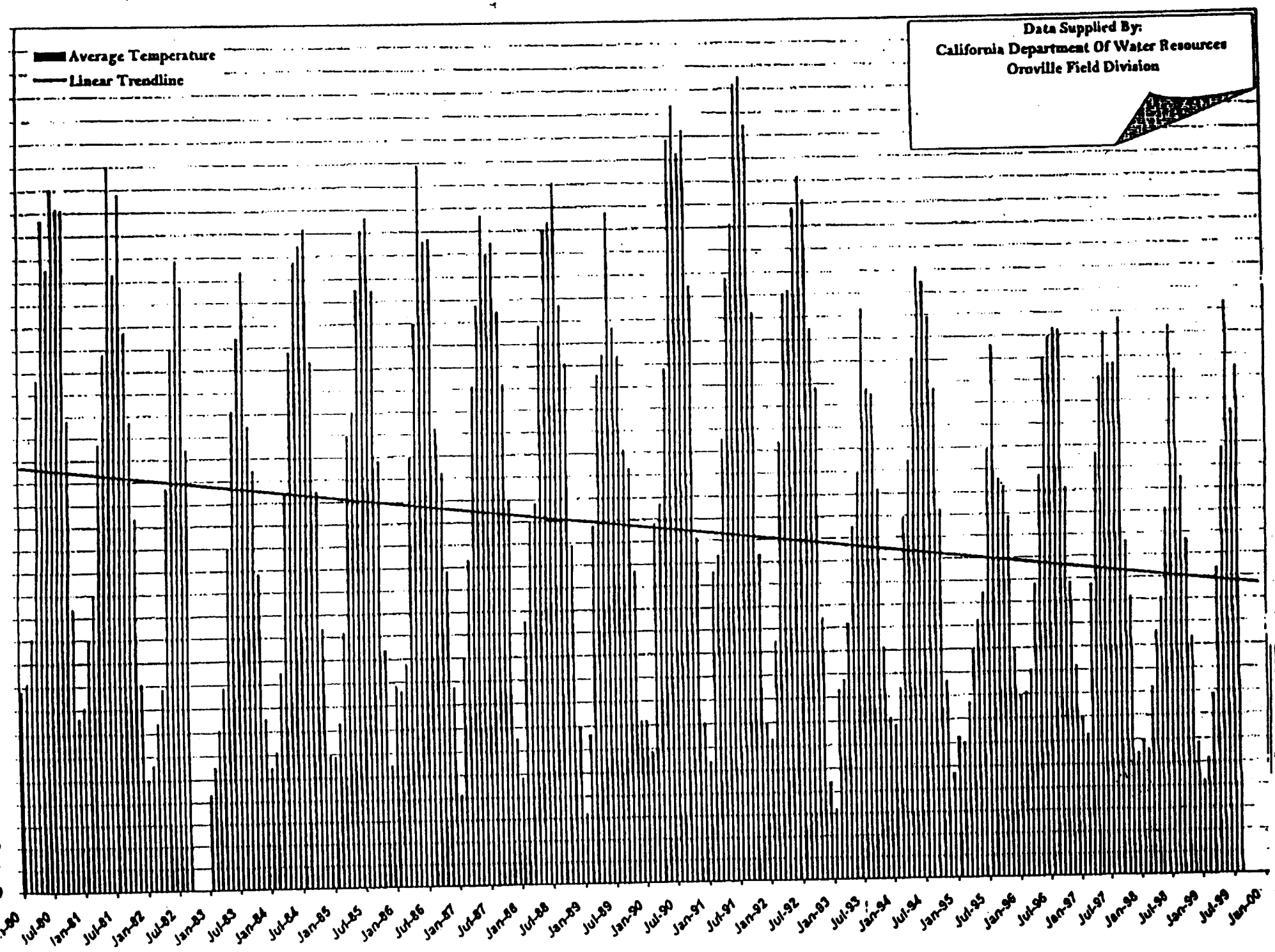
EXAMPLE #7



Oroville Complex Temperatures

EXHIBIT "A" PG 23 OF 2

Average Monthly Feather River Outlet Water Temperature



"A" 24 of 24

EXAMPLE #8

Exhibit B

FEATHER RIVER DIVERTERS

JOINT WATER DISTRICTS
735 Virginia Street
Gridley, California 95948
Telephone: (530) 846-3307

WESTERN CANAL WATER DISTRICT
P.O. Box 190
Richvale, California 95974
Telephone: (530) 342-5083

Representing:
Richvale Irrigation District
Biggs-West Gridley Water District
Butte Water District
Sutter Extension Water District

March 21, 2000

Director Thomas M. Hannigan
State of California
Department of Water Resources
1416 Ninth Street
P.O. Box 942836
Sacramento, CA 94236-0001

Re: DWR Obligations to Deliver Water from Thermalito Afterbay at Temperatures Suitable for Agriculture

Dear Director Hannigan:

We wrote you a letter dated February 1, 2000 regarding the above DWR obligation to deliver water from Thermalito Afterbay at temperatures suitable for agriculture. We have not as yet had your response and the year 2000 irrigation season is fast approaching.

During the interim period of time between February 1 and the date of this letter, and during our ongoing preparation for what we presume will be the commencement of Phase 8 of the Bay-Delta Hearings sometime later this year, we discovered the enclosed 14-page brochure produced by DWR entitled "Temperature Control of Water From Oroville Reservoir." The brochure was apparently developed and released during Governor Edmund G. "Pat" Brown's term as Governor of California and your predecessor, Bill Warnes's term as DWR Director. Both men presided during the building of Oroville Dam and reservoir in the early 60's.

A reading of the enclosed brochure produced at the time of building Oroville Dam and reservoir fairly supports the reasoning we submitted to you in our letter of February 1. For example, page 5 states:

> "The California Department of Water Resources has studied the potentially detrimental effects of cold water releases from the depths of Oroville reservoir upon local crops, fisheries, and recreation.

> Concluding that a means must be found to control the temperature of releases from Oroville reservoir so as to meet the diverse needs of a cold-water and a warmwater fishery, of rice growers, and of swimmers, snorklers, and water skiers, the Department set about to find that means.
>
> This booklet describes the problems involved and reports on the solution discovered." See Page 5 of "Temperature Control of Water From Oroville Reservoir" produced by the Department of Water Resources in the early 60's.

With respect to the impacts of "cold water" on the Feather River Fishery, the enclosed report states:

> "In the past, rivers and streams near Oroville have been considerably warmer. They have averaged from 52°F on May 1 to 72°F in August. The existing fishery has flourished in these warmer waters. The Department of Water Resources intends to see that cold water releases from Oroville reservoir do not harm that fishery." See Page 7 of "Temperature Control of Water From Oroville Reservoir" produced by the Department of Water Resources.

With respect to the subject of fish, the enclosed states:

> "The Feather River abounds in warmwater gamefish: striped bass, largemouth and smallmouth bass, shad, and catfish. During their growing season -- April through October -- these fish thrive best in waters averaging 60° to 75°F." See Page 9 of "Temperature Control of Water From Oroville Reservoir" produced by the Department of Water Resources in the early 60's.

With regard to agricultural production of rice by a number of landowners within our Districts, the enclosed report states in part:

> "The fields of the Feather River Service Area will be irrigated by releases from Oroville reservoir. Rice production is important to the economy here; and irrigation water temperature is a critical factor in rice growth.
>
> Cold water released from the depths of Oroville reservoir would harm the rice crop. Even without Oroville Dam, water temperatures of the Feather River are not ideal for rice growth. Their average May through August range has been from 52° to 72°F.

The University of California has demonstrated that rice plants thrive best when the temperature of irrigating waters ranges from 59° to 77°F. Even within this critical range, temperature fluctuation drastically affects the harvest.

With a proper outlet structure at Oroville Dam, the temperature of releases can be controlled so as to serve the agricultural interests of the area." See Page 11 and Page 12 of "Temperature Control of Water From Oroville Reservoir" produced by the Department of Water Resources in the early 60's.

Again, Director Hannigan, we urge you to deliver a written communication to the authors of the memos sent you which we identify in our letter to you of February 1, 2000. Please advise NOAA/NMFS, USBR, USFWS and DFG to assist DWR in ensuring that water temperatures delivered to both the Joint Water District Members and WCWD Service Areas are delivered and distributed in reasonable compliance with the water temperature level set forth not only in our letter to you of February 1 but also in your own enclosed document entitled "Temperature Control of Water From Oroville Reservoir." We understand the press of business at DWR but we would appreciate a response within the next ten (10) business days so that we may know of DWR's position on this critically important subject in accord with our 1969 and 1985 Agreements and prior to the start of the year 2000 irrigation season.

Very truly yours,

FEATHER RIVER DIVERTERS

JOINT WATER DISTRICTS

Richvale Irrigation District

By: _____
Gene Harris - President

Sutter Extension Water District

By: _____
Ronald Harrington - Chairman

Biggs-West Gridley Water District

By: _____
Ralph R. Cassady - President

WESTERN CANAL WATER DIST.

By: _____
Lance Tennis - President

Butte Water District

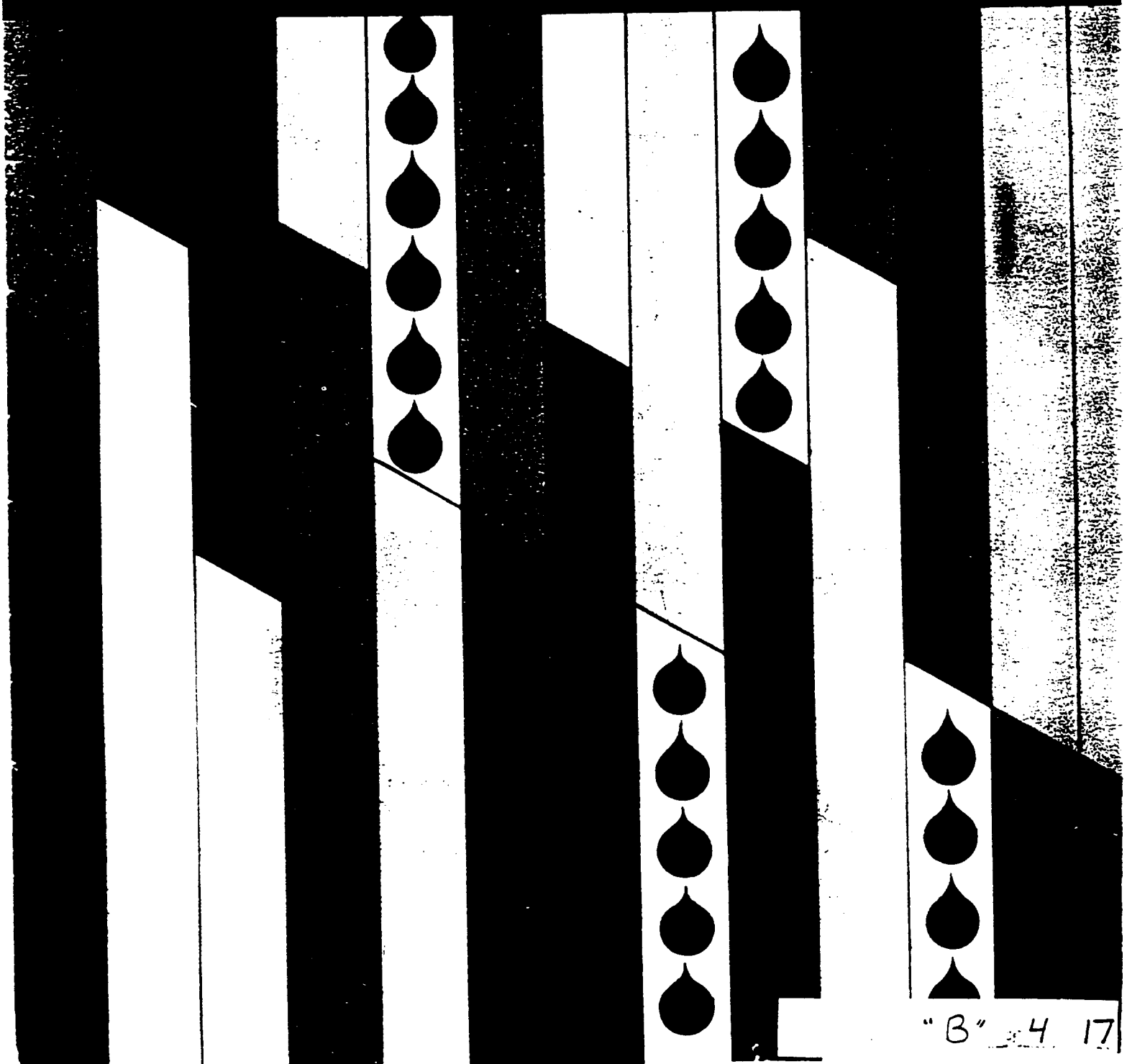
By: _____
Robert Waller - President

Enclosure

cc: National Oceanic and Atmospheric Administration
National Marine Fisheries Service
California Department of Fish and Game
United States Fish and Wildlife Service

EXHIBIT "B" PG 3 OF 17

TEMPERATURE CONTROL OF WATER FROM OROVILLE RESERVOIR



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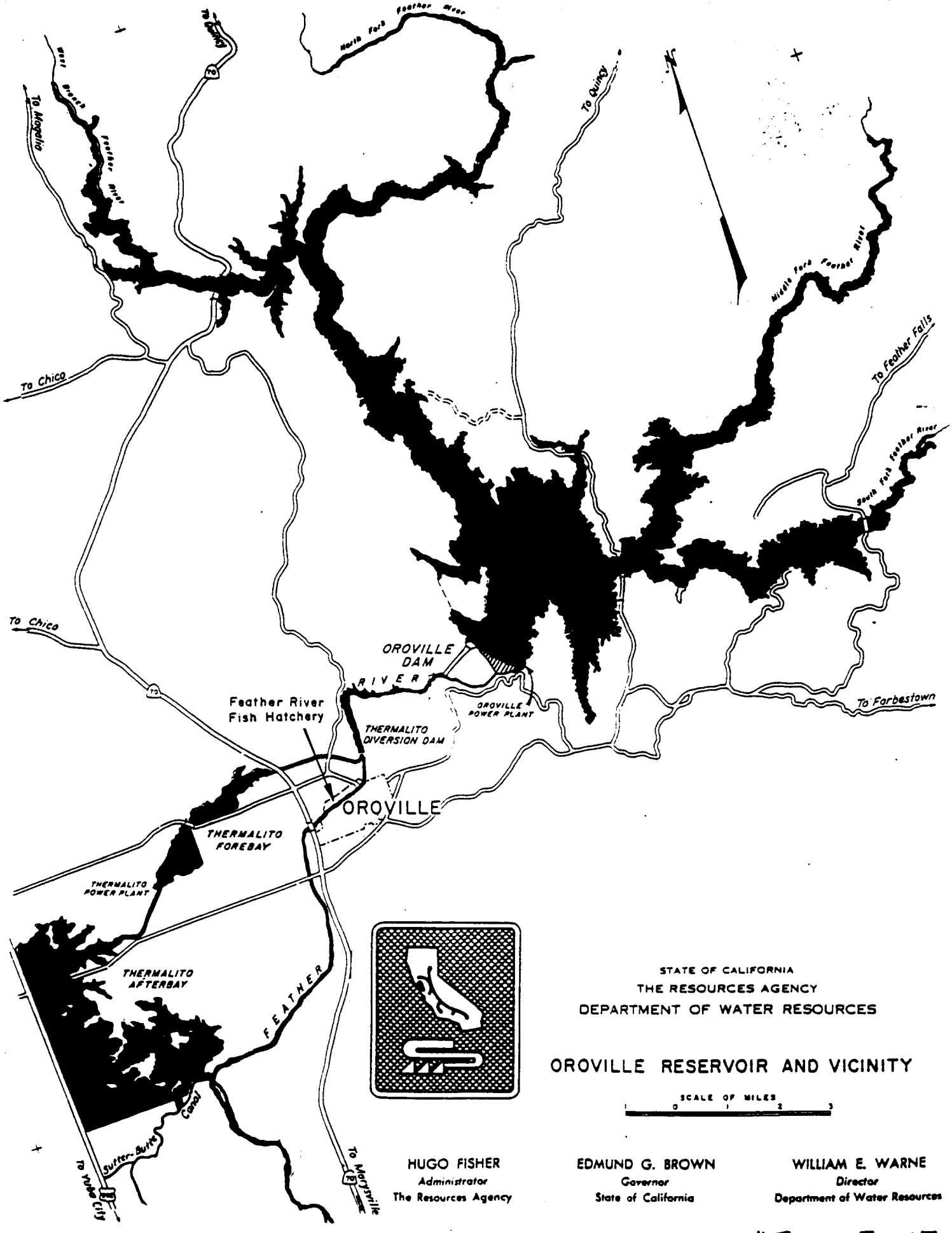


STATE OF CALIFORNIA
THE RESOURCES AGENCY
DEPARTMENT OF WATER RESOURCES

OROVILLE RESERVOIR AND VICINITY

SCALE OF MILES
0 1 2 3

HUGO FISHER
Administrator
The Resources Agency

EDMUND G. BROWN
Governor
State of California

WILLIAM E. WARNE
Director
Department of Water Resources

EXHIBIT "B" PG 5 OF 17

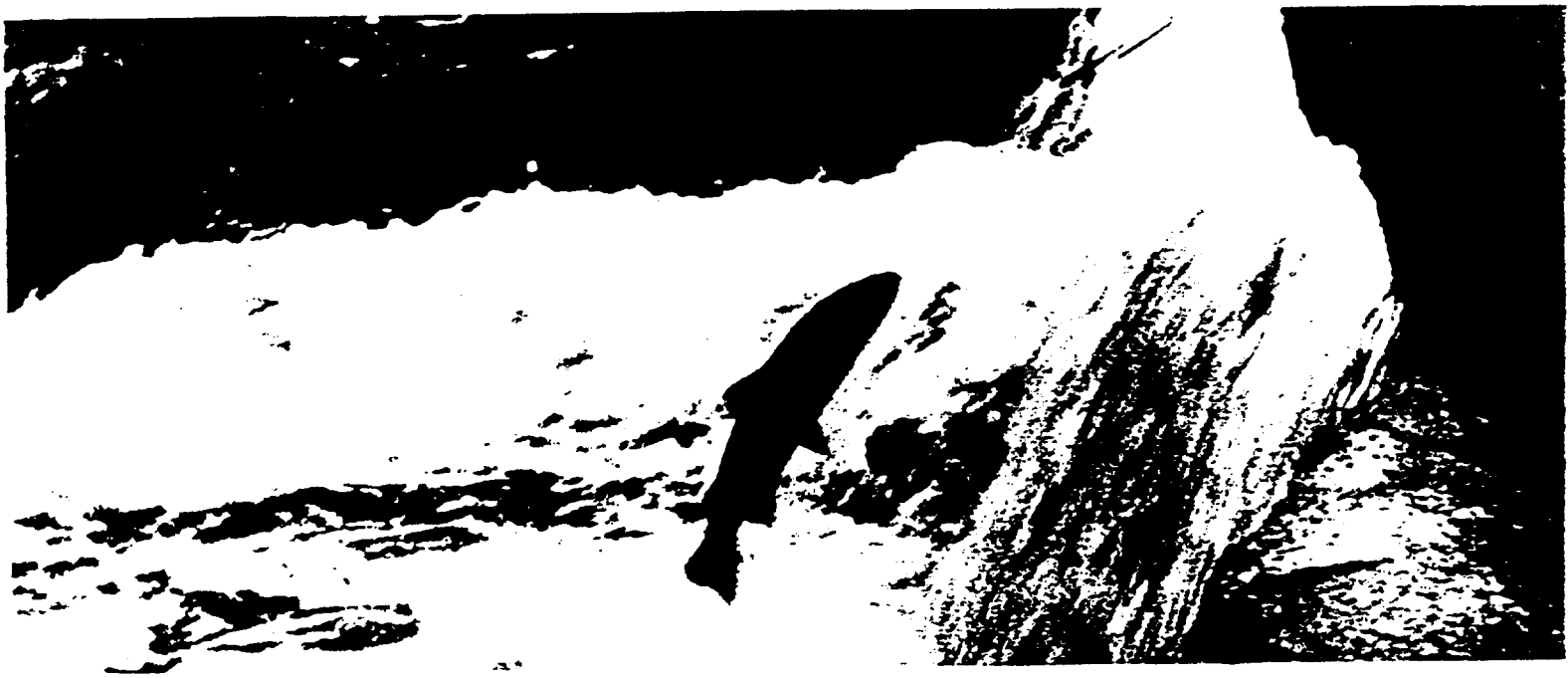
THE WATER TEMPERATURE PROBLEM

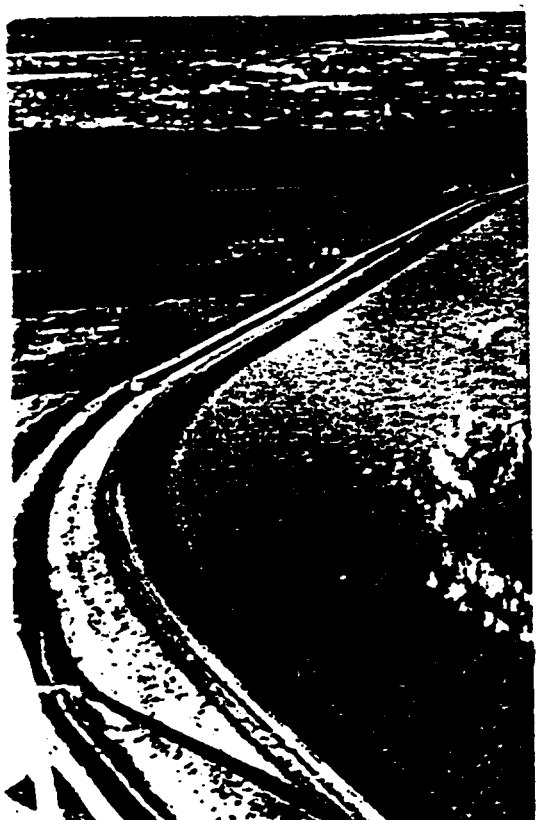
A key feature of the State Water Project is Oroville Dam, the highest earthfill dam in the world. Located a few miles above Oroville on the Feather River, this great dam will control floods, will produce power at both Oroville and Thermalito Power Plants, and will provide water to meet the needs of Californians.

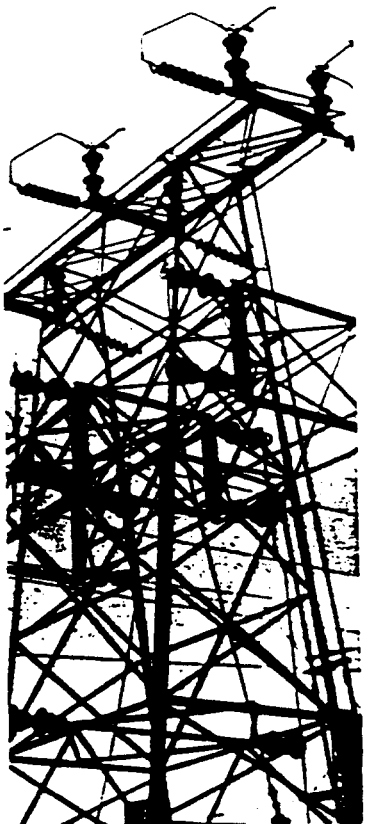
Among these needs are water for fisheries, for crops, and for recreation.

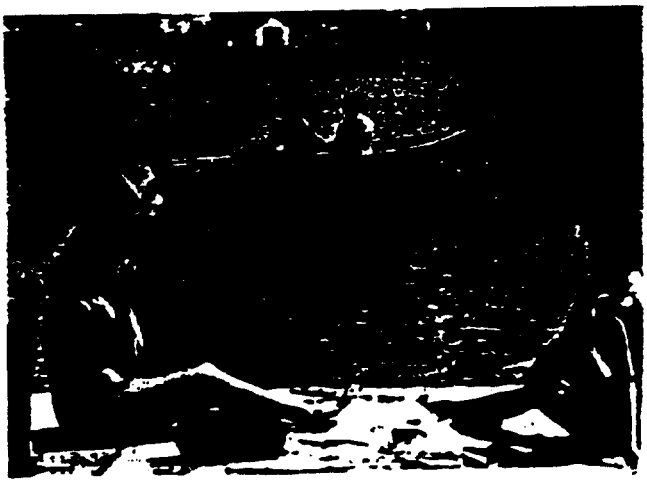
One of the complex problems of big reservoirs, such as that which will rise behind Oroville Dam, is the control of the temperature of their released water. Locally, releases of very cold water can harm the fishery, can retard the growth of irrigated crops, and can discourage water sports.

Cold water releases can harm the fishery, retard irrigated crops, and discourage water sports. Flood control and power production remain unaffected by water temperature.









FISH,

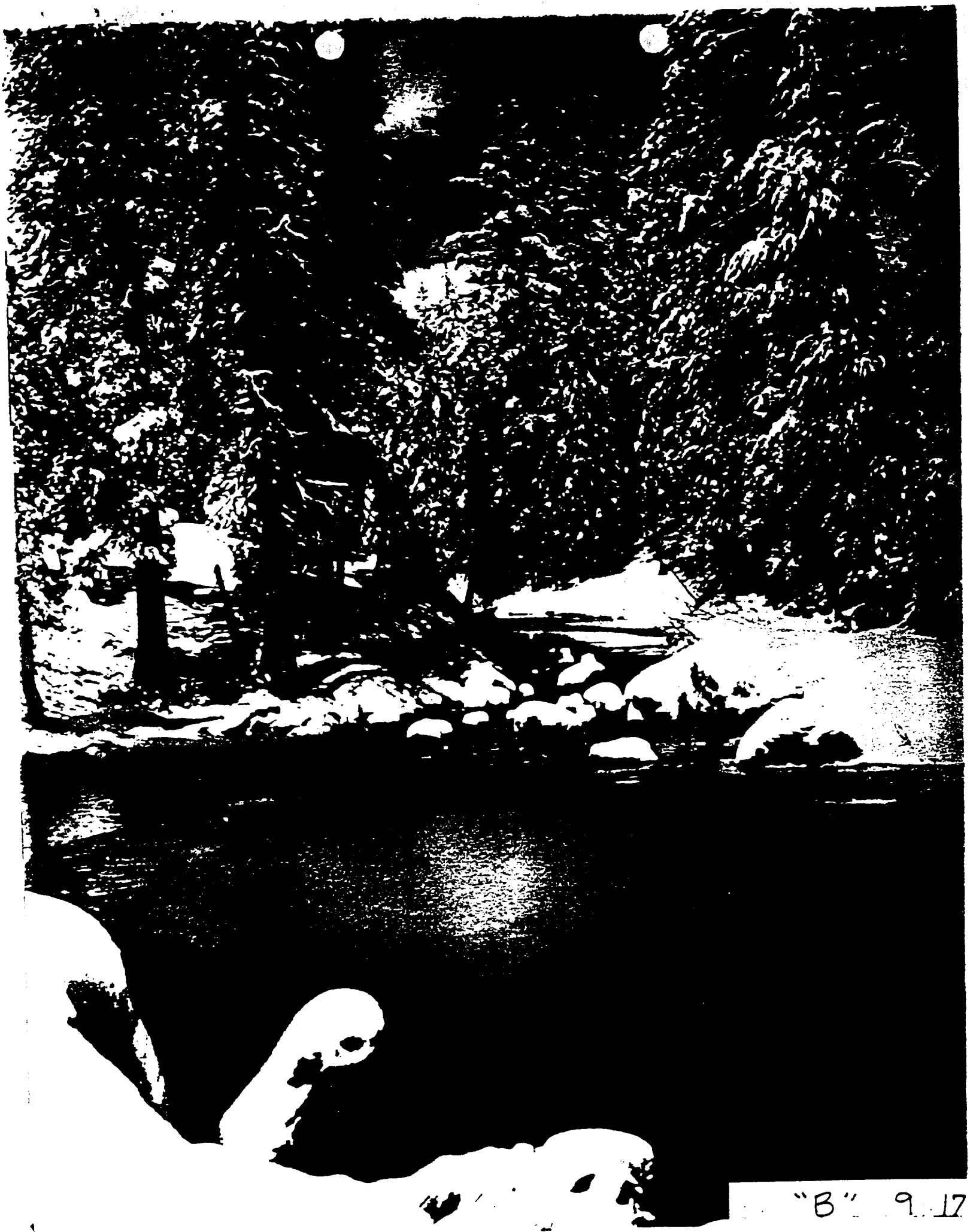
RICE, AND

SNORKLE

The California Department of Water Resources has studied the potentially detrimental effects of cold water releases from the depths of Oroville reservoir upon local crops, fisheries, and recreation.

Concluding that a means must be found to control the temperature of releases from Oroville reservoir so as to meet the diverse needs of a cold-water and a warmwater fishery, of rice growers, and of swimmers, snorklers, and water skiers, the Department set about to find that means.

This booklet describes the problems involved and reports on the solution discovered.



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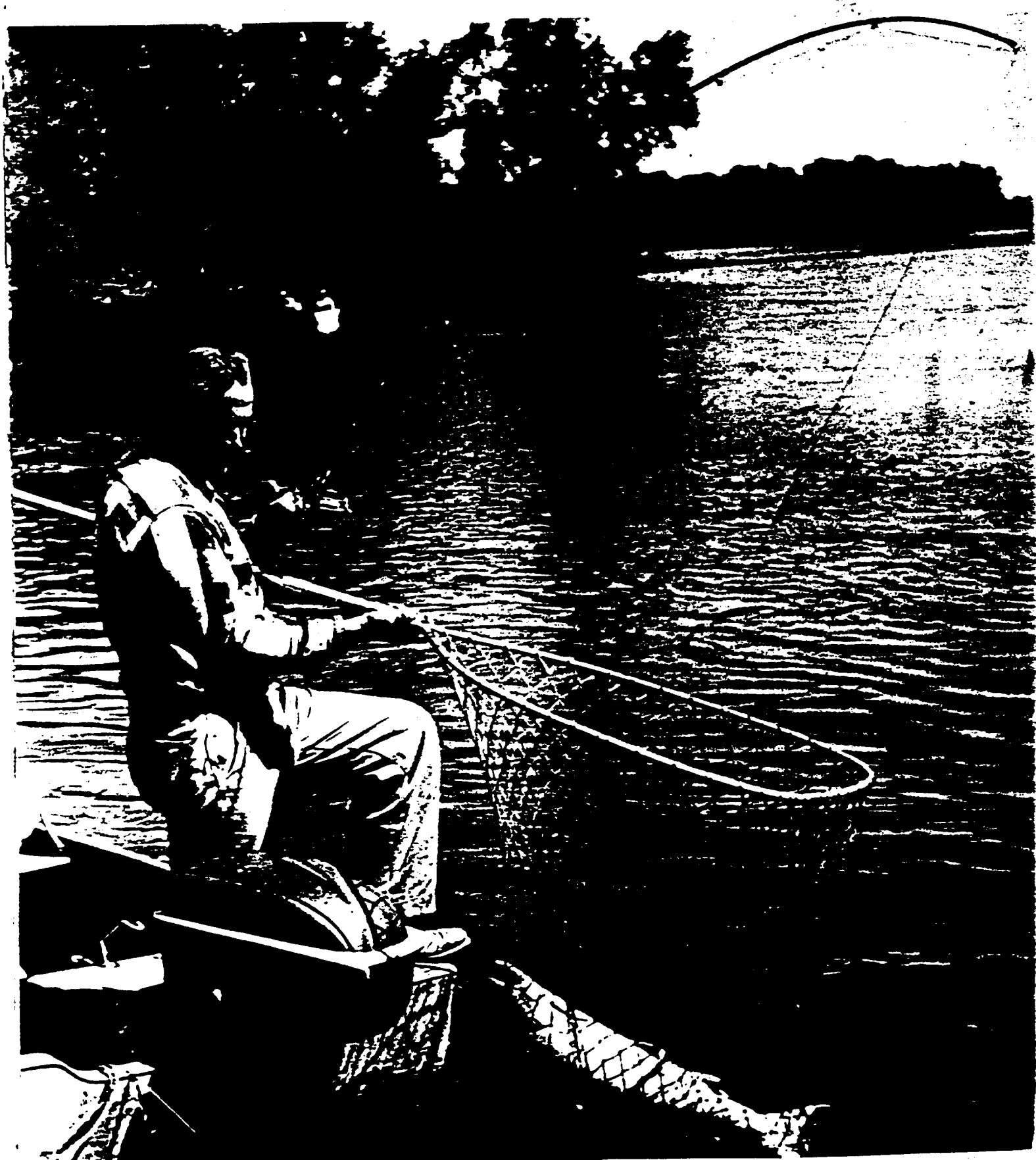
COLD WATER

The reservoir behind Oroville Dam will have a maximum water surface area of 15,500 acres and a maximum depth of 700 feet. Stored at such depths, the water of melting snows and winter floods stays cold indefinitely. If the outlet structure releases water only from these depths, the temperature of the released water in May would be about 42°F.

In the past, rivers and streams near Oroville have been considerably warmer. They have averaged from 52°F on May 1 to 72°F in August. The existing fishery has flourished in these warmer waters. The Department of Water Resources intends to see that cold water releases from Oroville reservoir do not harm that fishery.

"B" 11 17

Spring run salmon fishing



FISH

The Feather River abounds in warmwater gamefish: striped bass, largemouth and smallmouth bass, shad, and catfish. During their growing season -- April through October -- these fish thrive best in waters averaging 60° to 75°F.

Equally important to the river are its spring and fall runs of king salmon. Both runs spawn in the cooler waters of fall, but the spring run salmon, which travel upstream in the spring and early summer, have sought the deep, cool, canyon pools above Oroville dam site. Water that is too warm harms the yet unspawned salmon eggs. In waters of an estimated 60° to 65°F, the spring run salmon rest until their spawning time in late September and in October.

Blocked from these cool pools by Oroville Dam, the salmon would have to hold over in what traditionally have been warmer downstream waters if special provision were not made for their protection. Such provision will be made.

Water released from a single low-level outlet at Oroville Dam would be too cold for hatching salmon eggs and rearing young fish.

The Feather River Fish Hatchery, itself a part of the State Water Project, will lie below the dam.

Apart from a slight but desirable seasonal variation, water temperatures at the hatchery should hold around 55°F.

Unless the temperature of water released from Oroville reservoir is controlled, the Feather River Fish Hatchery cannot operate successfully.

RICE

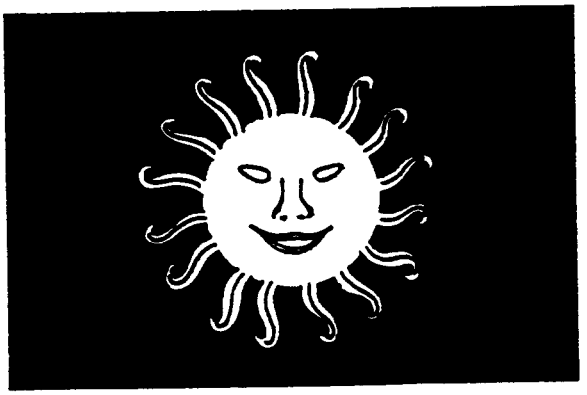
The fields of the Feather River Service Area will be irrigated by releases from Oroville reservoir. Rice production is important to the economy here; and irrigation water temperature is a critical factor in rice growth.

Cold water released from the depths of Oroville reservoir would harm the rice crop. Even without Oroville Dam, water temperatures of the Feather River are not ideal for rice growth. Their average May through August range has been from 52° to 72° F.

The University of California has demonstrated that rice plants thrive best when the temperature of irrigating waters ranges from 59° to 77° F. Even within this critical range, temperature fluctuation drastically affects the harvest.

Thermographs, placed in the Feather River above and below Oroville and in the canals of the Feather River Service Area, have provided a comprehensive record of water temperatures.

With a proper outlet structure at Oroville Dam, the temperature of releases can be controlled so as to serve the agricultural interests of the area.

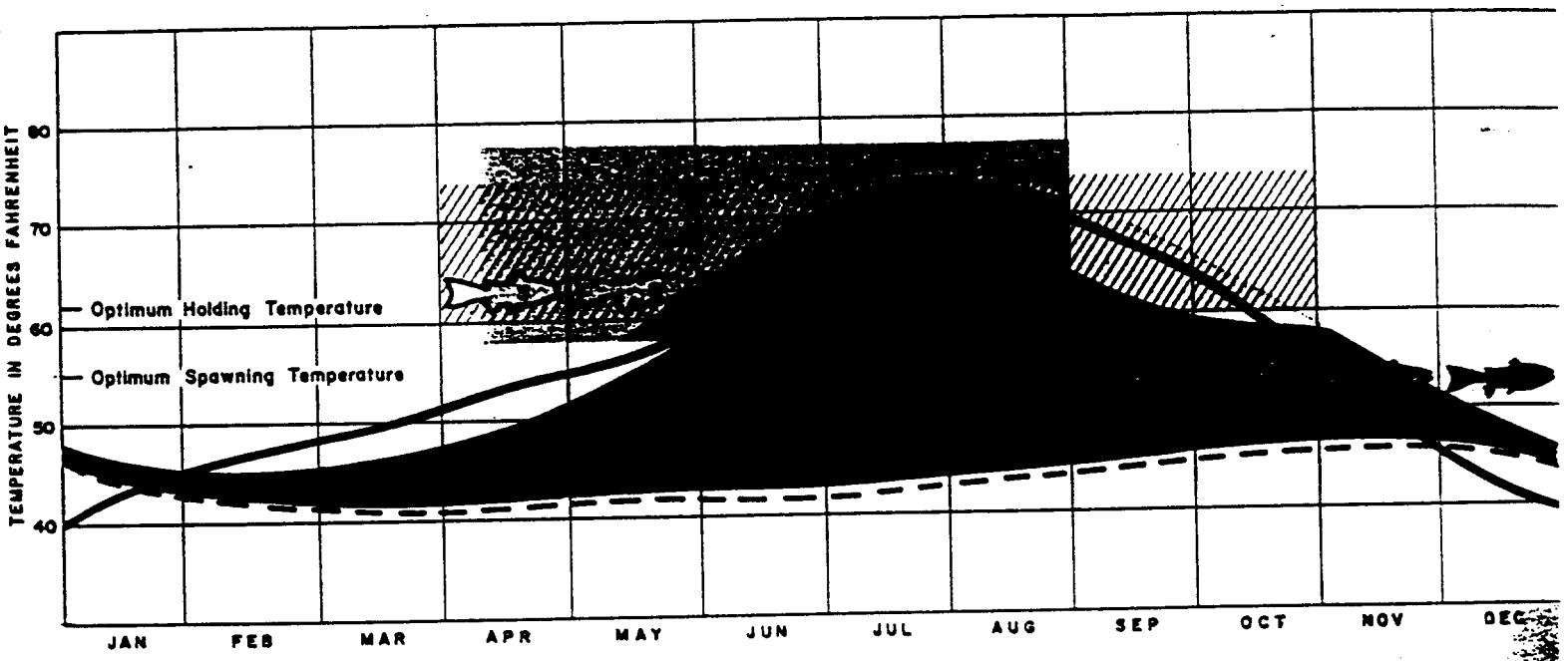


"B" p.15 of 17

"B" 16. 17

Rice fields

TEMPERATURE RANGE CHART



SALMON

S SPRING RUN

F FALL RUN

HOLDING PERIOD

SPAWNING PERIOD

OPTIMUM WATER TEMPERATURE RANGES

WARMWATER GAME FISH GROWING SEASON

RICE IRRIGATION SEASON

This graph depicts historic average temperatures of Feather River waters and the estimated temperature range of releases from Oroville Reservoir and Thermalito Afterbay. It relates such temperatures to optimum temperature ranges for rice irrigation waters and for the warmwater fishery and to preferred water temperatures for the holding and spawning of salmon.

EXHIBIT "B" P. 17

Self- team

Introduce : Ray Bell, MD Short, Floyd Higgins, -Self

representing the OROVILLE FOUNDATION OF FLIGHT,

affiliated with the Oroville Chapter of the EXPERIMENTAL AIRCRAFT ASSOCIATION. Your EAA group of citizens.

Our Chapter and Foundation meet monthly and participate in events as well as learning and teaching various aspects of general aviation to young and old citizens at our Vinyl Briefing Hut adjacent to the Golf Course on the Oroville Airport property. Where the public is always invited and welcome, especially during our monthly fly-in breakfast's
held on the third Saturday of each month.

Our mission here in the Oroville area is to bring awareness, and the joy of flight to the young and old alike, and to promote a better understanding of aviation in general. Along with that we would like to ask that in the future general aviation will be allowed to expand and grow, on land as well as on the abundant waterways we have to offer here around Oroville. Specifically - a year around base to accomodate Seaplanes at the Afterbay waterway.

To begin with, I would like to bring up a factor that should be considered in the choosing of a Seaplane base here in Oroville. Presently, there does not exist any Seaplane base between San Francisco and Portland, Oregon. Float planes must refuel at general boating marinas, mixing with boat traffic, maneuvering around upright signs and fuel dock pumps, as well as being offered low octane fuel instead of high octane aircraft fuel. Seaplanes could contact the local Flight Base Operator by radio while inflight and arrange for dockside fuel delivery during their flights in and

Exhibit L

through this area if we could establish a Seaplane base here at the Oroville afterbay adjacent to our airport.

Over the past three years, during our aircraft events, such as the Starduster biplane Open house fly-in and presenting the B-17 Bomber "The Aluminum Overcast", we have accomodated float planes for the public to enjoy also.

We have found that the site we have chosen is relatively clear of heavy boat traffic, has a relatively low count of wildlife to disturb, and meets all FAA requirements in size, depth, approach and departure pathways.

The addition of a Seaplane facility here in Oroville should bring about about aviation events and encourage the development of float plane activities and public participation in watercraft use and ownership here in Oroville

TMD has brought a float plane license and float apparatus [illegible] in lobby

Have folder of aerial photo's

Comments and requirements taken from Seaplane Pilots Association web site - explains environmental impact studies

Ferc Project #2100
Exhibit C
10:29 Ci
2/12 PT